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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 3407 OF 2017
IN
FIRST APPEAL (St.) No. 28510 OF 2017
WITH
CIVIL APPLICATION No. 2472 OF 2018
WITH
CIVIL APPLICATION No. 3408 OF 2017

The New India Assurance Co. Ltd. ... Appellant
Vs.
Smt.Asha Shivaji Pansare & Ors. ... Respondents

Mr. S. M. Dange, for the Appellant, Applicant in CAF. 3407/2017, CAF. 3408/2017 and for Respondents in CAF. 2472/2018.

Mr. Pritesh K. Bohade, for the Respondent in FAST. 28510/2017, CAF. 3407/2017, CAF. 3408/2017 and for Applicant in CAF. 2472/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 3407 OF 2017

1. This is an application filed by the insurance company for condonation of 108 days caused in lodging the first appeal, challenging judgment and award dated 6.3.2017 passed by the

learned Member, Motor Accident Claims Tribunal, Nashik in MACP No. 1175 of 2013. Heard the learned counsel for the original claimants has no objection, and the learned counsel for the insurance company. For the purpose of deciding present application, presence of other respondents is not necessary. For the reasons stated in the application, the delay is condoned. Application is accordingly allowed and disposed of in terms of prayer clause (a). Office to register the appeal after removal of office objections by the Appellant.

FIRST APPEAL (St.) No. 28510 OF 2017

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Pritesh Bohade waives service of notice for the original claimants. Call for record and proceedings

CIVIL APPLICATION No. 2472 OF 2018

3. This is an application filed by the original claimants, who are - widow (Applicant No.1), sons (Applicant No.2 and 3) of the deceased Shivaji Pansare, for withdrawal of the amount of compensation deposited by the insurance company before the

court below. The learned court below has directed the insurance company and other opponent therein to pay Rs. 6,00,000/-to the claimants including the amount of “no fault liability” together with interest @ 6% p.a.. The learned counsel for th insurance company makes a solemn statement that the insurance company has deposited entire amount of compensation, in the court below. Statement is accepted.

4. After hearing the learned counsel for the Applicants / claimants and the learned counsel for the insurance company, in the interest of justice, I pass the following order:

- (i) The claimants are entitled to withdraw 50% of the amount deposited by the insurance company in the lower Court alongwith the interest.
- (ii) The remaining 50% of the amount shall be invested by the court below in any nationalised bank, initially for a period of 3 years and renew the same as and when occasion arises.
- (iii) Civil Application No. 2472 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 3408 OF 2017

5. This is an application filed by the insurance company for stay to the impugned judgment and award of the learned Tribunal. Heard the learned counsel for the insurance company and the original claimants. Today, this Court has admitted the appeal filed on behalf of the insurance company, as also allowed the original claimants to withdraw 50% of the compensation deposited by the insurance company, as indicated in the order. In this view of the matter, pending the hearing and disposal of the appeal, there shall be stay in respect of 50% compensation awarded vide impugned judgment and award dated 6.3.2017 passed in MACP No. 1175 of 2012 by the learned Tribunal at Pune, which the trial court will be investing in the nationalised bank.

6. Civil Application No. 3408 of 2017 is disposed of in the aforesaid terms.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemath