

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION (ST.) NO. 33156 OF 2016
WITH
CIVIL APPLICATION NO. 1195 OF 2017
IN
FIRST APPEAL (ST.) NO. 33155 OF 2016**

Reliance General Insurance Co.Ltd. ...Applicant

Versus

Smt. Vimal Gajanan Nalawade & Ors. ...Respondents

**WITH
CIVIL APPLICATION NO.93 OF 2018
IN
FIRST APPEAL (ST.) NO.33155 OF 2016**

Smt.Vimal Gajanan Nalawade & Ors. ...Applicants

IN THE MATTER BETWEEN

Reliance General Insurance Co.Ltd. ...Appellant

Versus

Smt.Vimal Gajanan Nalawade & Ors. ...Respondents

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Ms.Poonam Mital for the Original Appellant in FA.
Mr.S.S.Vidyarthi for Respondent Nos. 1 to 5.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : JANUARY 17, 2018**

P.C.:

1. Upon urgent mentioning, taken on Production Board.

CIVIL APPLICATION (ST.) NO. 33156 OF 2016

2. This Application is moved for condonation of delay of 20 days in filing First Appeal.
3. The learned counsel for the applicant submitted that the delay is not deliberate but due to procedural requirement, delay is caused.
4. The learned Counsel for respondent nos. 1 to 5 submits to the order passed by this Court.
5. In view of the submissions made by the learned counsel and the reasons mentioned in the application, delay of 20 days is condoned.
6. Civil Application is allowed and is disposed of accordingly.
7. First Appeal be numbered.

CIVIL APPLICATION NO. 1195 OF 2017

8. The learned counsel for the applicant submits that the applicant/insurance company has deposited the entire decretal amount alongwith interest accrued thereon pursuant to the judgment and award dated 1st July, 2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.P.No. 340 of 2010. Hence, she prays that the impugned judgment and award be stayed, pending Appeal.

9. In view of this submission, the execution and implementation of the impugned judgment and award is stayed till the final disposal of the Appeal.

10. Civil Application is allowed and is accordingly disposed of.

CIVIL APPLICATION NO.93 OF 2018

11. This Application is moved for withdrawal of an amount deposited by the original appellant pursuant to the judgment and award dated 1st July, 2016 passed by the learned Member, Motor

Accident Claims Tribunal, Mumbai in M.A.C.P. No. 340 of 2010. The learned Member has granted compensation of Rs. 10,46,270/- along with interest @ 9% p.a. The learned Member apportioned the compensation between applicant no.1 and applicant nos. 2 to 5. Out of this amount, 60% of the amount with interest is to be paid to applicant no.1 and 10% each of the amount with interest is to be paid to applicant nos. 2 to 5.

12. The learned counsel for the applicants submitted the applicants are the widow and four children of the deceased and therefore, the applicants be allowed to withdraw the amount.

13. The learned counsel for the appellant submitted that the appellant/ insurance company challenges this Appeal on the ground of quantum and breach of the policy. The appellant has a very good ground to succeed in the Appeal.

14. Considering the judgment and award and the apportionment made therein, the applicants are allowed to withdraw 50% of the amount as per their entitlement deposited by the appellant on an

usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

15. Civil Application is allowed and is accordingly disposed of.

(MRIDULA BHATKAR, J.)