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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 2983 OF 2017
IN
FIRST APPEAL (St.) No. 24688 OF 2017
WITH
CIVIL APPLICATION (St.) No. 32317 OF 2017
WITH
CIVIL APPLICATION No. 2984 OF 2017

Branch Manager,
Reliance General Insurance Co. Ltd. ... Appellant
Vs.
Smt. Sharda Dadaso Kamble & Ors. ... Respondents

Ms. Shalini Shankar, for the Appellant, for Applicant in CAF. 2983/2017, CAF. 2984/2017 and for the Respondent in CAFST. 32317/2017.

Mr. Sanjay H. Gangal, for Respondent Nos. 1 to 3 in FAST. 24688/2017 and CAF. 2983/2017, 2984/2017 and for Applicant in CAF. 32317/2017.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 2983 OF 2017

1. This is an application filed by the insurance company

for condonation of 177 days delay caused in lodging the first appeal, challenging judgment and award dated 03.11.2016 passed by the learned Member, Motor Accident Claims Tribunal, Pune in MACP No. 282 of 2012. Learned counsel Mr. Sanjay Gangal waives notice for Respondent No. 1 to 3. 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. 24668 OF 2017

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Sanjay Gangal waives service of notice for the Respondent Nos. 1 to 3. Call for records and proceedings.

CIVIL APPLICATION (St.) No. 32317 OF 2017

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 Dadasaheb Kamble, for withdrawal of the amount of compensation deposited by the insurance company

before the court below. The learned court below vide impugned judgment and award dated 30.11.2016 has directed the insurance company and another non-applicant therein to pay Rs. 12,40,000/- to the claimants including the amount of “no fault liability” alongwith interest @ 9% p.a.. The learned counsel for the insurance company has made a solemn statement that the insurance company has deposited the entire compensation amount in the lower court. This 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 Applicants are entitled to withdraw 50% of the compensation amount deposited by the insurance company in the lower court, alongwith the accrued interest as under:

(a) Out of 50% compensation amount alongwith interest, Applicant No. 1 Sharada Kamble is entitled to withdraw 50% of the said amount;

(b) Out of 50% compensation amount alongwith

interest, Applicant No. 2 Santosh and Applicant No. 3 Pankaj, each are entitled to withdraw 25% of the said amount;

- (ii) The remaining 50% amount alongwith the amount of statutory deposit (already transferred) 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 (St.) No. 32317 of 2017 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 2984 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 that view of the matter, pending the hearing and disposal of

the appeal, there shall be an ad-interim stay in respect of 50% of the compensation awarded vide impugned judgment and award, dated 30.11.2016 passed in MACT Application No. 282 of 2012 by the learned Tribunal at Baramati, which the trial court will be investing in the nationalised bank.

6. Civil Application No. 2984 of 2017 is disposed of in the aforesaid terms.

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

Vinayak Halemath