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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL No. 816 OF 2018
WITH
CIVIL APPLICATION No. 2473 OF 2018
WITH
CIVIL APPLICATION No. 2474 OF 2018

Bajaj Allianz General Insurance Co. Ltd. ... Appellant
Vs.
Smt. Sawana Afjal Maknojiya &Ors. ... Respondents

Mr. D. S. Joshi, for the Appellant, for the Applicant in CAF. 2474/2018, and for Respondent in CAF. 2473/2018.

Ms. Varsha Chavan, for the Respondent Nos. 1 and 2 in CAF. 2473/2018, and FA. 816/2018, and for Applicant in CAF. 2473/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

FIRST APPEAL No. 816 OF 2018

1. Heard the learned counsel for the Appellant. **Admit.**
Learned counsel Ms. Varsha Chavan waives service of notice for the Respondent Nos. 1 and 2. Call for records and proceedings.

CIVIL APPLICATION No. 2473 OF 2018

2. This is an application filed by the original claimants,

who are widow (Applicant No. 1) and daughter (Applicant No. 2) of deceased Afjal Maknojiya who died in an accident, for withdrawal of the amount of compensation deposited by the insurance company before the court below. The learned counsel for the insurance company submits that the insurance company has deposited the entire amount of compensation, in the court below, as per the judgment and award dated 27.7.2017 in Application No. 2904 of 2010, impugned in the appeal.

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

- (i) The Applicant / original claimant is entitled to withdraw 50% of the amount deposited by the insurance company in the lower Court alongwith interest, as per the apportionment made by the learned Tribunal in the impugned judgment and award.
- (ii) Office is directed to transfer the statutory deposit which was made in this Court by the insurance company at the time of lodging the appeal to the

learned Motor Accident Claims Tribunal at Mumbai.

- (iii) The remaining remaining 50% of the amount alongwith the amount of statutory deposit 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.
- (iv) Civil Application No. 2473 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 2474 OF 2018

4. 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 claimant. Today, this Court has admitted the appeal filed on behalf of the insurance company, as also allowed the original claimant 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 stay in respect of 50% compensation awarded vide impugned judgment and award dated 27.7.2017

passed in Application No. 2904 of 2010 by the learned Tribunal at Mumbai, which the trial court will be investing in the nationalised bank.

5. Civil Application No. 2474 OF 2010 is disposed of in the aforesaid terms.

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

Vinayak Halemath