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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 4192 OF 2017
IN
FIRST APPEAL (St.) No. 34359 OF 2017
WITH
CIVIL APPLICATION No. 1746 OF 2018
WITH
CIVIL APPLICATION No. 4194 OF 2017

The New India Insurance Co. Ltd. ... Appellant
Vs.
Mohan Shankar Patekar & Ors. ... Respondents

Mr. Himanshu Takke I/b Milind V. More, for the Appellant, for the Applicant in CAF. 4192/2017, CAF. 4194/2017, and for Respondent in CAF. 1746/2018.

Mr. Rajesh More, for the Respondent Nos. 1 and 2 in CAF. 4192/2017, and 4194/2017 and for Applicant in CAF. 1746/2018.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 18, 2018

PC :-

CIVIL APPLICATION No. 4192 OF 2017

1. This is an application filed by the insurance company for condonation of 90 days delay caused in lodging the first

appeal, challenging judgment and award dated 3.6.2017 passed by the learned Additional Member, Motor Accident Claims Tribunal, Pune in MACT Petition No. 389 of 2010. Since, the learned counsel for the original claimants has no objection, and presence of other respondents is not necessary for the purpose of deciding present application, and for the reasons stated in the application, said 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. 34359 OF 2017

2. Heard the learned counsel for the Appellant. **Admit.** Learned counsel Mr. Rajesh More waives service of notice for the Respondent Nos. 1 and 2. Call for record and proceedings

CIVIL APPLICATION No. 1746 OF 2018

3. This is an application filed by the original claimants, who are parents of the deceased Manjusha Patekar who lost her life in the fatal accident, 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 two opponents therein to pay Rs.50,14,625/-to the claimants including the amount of “no fault liability” with interest @ 9% p.a. from the date of filing the petition till its realisation. The learned counsel for the insurance company makes a solemn statement that the insurance company has deposited entire amount of compensation, in the court below, which is also concurred by the learned counsel for the original claimants.

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) Office is directed to transfer statutory deposit made by the insurance company at the time lodging the appeal to the learned Motor Accident Claims

Tribunal at Pune. The remaining 50% of the amount shall alongwith the amount of statutory deposit 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. 1746 of 2018 is accordingly partly allowed and disposed of in the aforesaid terms.

CIVIL APPLICATION No. 4194 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 stay in respect of 50% compensation awarded vide impugned judgment and award dated 3.6.2017

passed in MACT Petition No. 389 of 2010 by the learned Tribunal at Pune, which the trial court will be investing in the nationalised bank.

6. Civil Application No. 4194 of 2017 is disposed of in the aforesaid terms.

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

Vinayak Halemath