

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.4227 OF 2017
IN
FIRST APPEAL (ST) NO.36516 OF 2017**

Maharashtra State Road
Transport Corporation

.... Applicant

versus

Smt.Aradhika Punit Dogra & Ors.

... Respondents

.....

Mr.C.M. Lokesh i/b. G.K.S. Hegade, Advocate for the Applicant.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATE : 05th JANUARY, 2018.**

P.C. :

1. Heard learned counsel for the parties.
2. The learned counsel for the Applicant submits that Respondent/Claimants have filed Execution Application for recovery of decretal amount. He submits that, if entire amount of compensation is recovered by the Respondent/Claimant in Execution Application, then nothing survives in the present Civil Application.

3. The learned counsel for the Applicant submits that trial Court, by the impugned Judgment and Award dated 07/07/2017 in Application No.2103/10 held that the respondent/Claimants are entitled for a sum of Rs.96,13,000/- inclusive of the NFL along with interest at the rate 7.5% per annum from the date of the application till its realization. He submitted that the trial Court erred in holding that the claimants are entitled compensation of more than Rs.96 lakhs. He further submitted that he received instructions from his client that they are ready and willing to deposit the amount of compensation in trial Court within 8 weeks from today. Statement is accepted.
4. Considering the statement made by the learned counsel for the Applicant, we are satisfied that the applicant has made out case for stay of impugned order on condition that they have to deposit the entire amount of compensation with interest and cost in the trial Court.
5. In the present proceedings Claimant No.1 is the widow

Claimant No.2 is the minor son, Claimant Nos.3 and 4 are senior citizens, parents of the deceased. Considering the reasons given by the trial Court, we are of the opinion that Claimant No.1 can withdrawn 20% of decretal amount without any security and Claimant Nos.3 and 4 can withdraw 10% each without furnishing any security and rest of the amount required to be deposited in fixed deposit in any nationalized bank till further orders. Hence following order:

- (a) Implementation of impugned Judgment and Award dated 07/07/2017 passed by the Motor Accident Claims Tribunal, Mumbai, in Application No.2103/10 is stayed till further orders on condition that the applicant deposit the entire amount with interest and costs in trial Court within 8 weeks from today.
- (b) If amount is not deposited within stipulated time as stated above, the Respondents/Claimants are entitled to execute the Award according to law.
- (c) If the amount is deposited within stipulated time as stated above, the Respondents/Claimants can

withdraw the amount as follows without furnishing any security;

- (1) Smt.Radhika Punit Dogra - Claimant No.1 – 20% of decretal amount.
 - (2) Mr.Pratap Singh Raghuveer Singh Dogra - Claimant No.3 – 10% of decretal amount.
 - (3) Mrs.Aruna Pratap Singh Dogra - Claimant No.4 – 10% of decretal amount.
- (d) Trial Court to invest remaining amount in fixed deposit, in any nationalized bank for a period of one year and same to be continued till further orders.
- (e) Liberty is granted to the Respondent/Claimants to prefer appropriate application, if they so desire for withdrawal of further decretal amount and that to be decided on its own merits.
- (f) Civil Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)