

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CAF NO.1893/2018 IN FA ST.NO.2529/2018
Shriram General Insurance Co.Ltd., thr. its Legal Officer
..VS..
Shri Shrikrushna s/o Wasudeo Sarode and ors

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri H.N. Verma, Counsel for the applicant.
Shri S.A. Mohta, Counsel for non-applicant Nos.1 to 3.

CORAM : V.M. DESHPANDE, J.
DATED : SEPTEMBER 5, 2018.

1. This is an application for condonation of delay filed on behalf of the applicant-insurance company. Delay is of 375 days in lodging the appeal.
2. Notices on the present application were issued and in pursuance to the Notices, learned counsel Shri S.A. Mohta appeared for non-applicant Nos.1 to 3 and vehemently opposed the application. However, for the reasons stated in the application, the application is allowed. The delay is hereby condoned. Office to register the first appeal.
3. The civil application is disposed of accordingly.

FA ST.NO.2529/2018

1. Heard learned counsel Shri H.N. Verma for the appellant.
2. **ADMIT.** The record and proceedings be called for.

.....2/-

3. Learned counsel Shri S.A. Mohta waives service for respondent Nos.1 to 3.

CAO No.1619/2018

1. This is an application filed on behalf of respondent Nos.1 and 2 for withdrawal of the amount deposited by the insurance company before this Court.

2. I have heard learned counsel Shri S.A. Mohta for respondent Nos.1 and 2 and learned counsel Shri H.N. Verma for the appellant-insurance company.

3. The applicants in this application are unfortunate parents of deceased Abhijit who lost his life in a vehicular accident took place on 3.6.2011 at the age of 26 years. The claim petition was lodged for and on behalf of the parents as well as deceased's brother Amit before the Court below and the same was registered as MACP No.151/2011. Various defences were raised by the insurance company including defence that no vehicular accident took place. Learned Member, MACT, Akola vide judgment dated 19.9.2016 granted compensation only in favour of the parents of the deceased to the tune of Rs.14,10,200/- inclusive of the amount of "No Fault Liability" along with interest at the rate of 9% per annum.

4. In pursuance to the order passed by this Court on 4.7.2018, the insurance company deposited amount of Rs.21,74,071/- before this Court.

5. After hearing learned counsel for the parties, I pass following order:

.....3/-

ORDER

- i) The civil application is partly allowed.
- ii) Respondent No.1 Shri Shrikrushna Sarode and respondent No.2 Sau. Kantabai w/o Shrikrushna Sarode will be entitled to withdraw 50% of the amount deposited by the insurance company before this Court on they giving an undertaking before this Court that in the event the appeal filed on behalf of the insurance company is allowed, they will refund the amount so withdrawn by them along with interest that will be determined by this Court at the time of final hearing of the appeal.
- iii) Registrar (J.) of this Court is directed to invest the remaining 50% amount with any Nationalized Bank initially for a period of 3 years and shall continue to do the said exercise as and when occasion arises.
- iv) With this, the civil application is disposed of accordingly.

At this Stage, learned counsel Shri S.A. Mohta submits that the claimants are senior citizens. Therefore, the Registry be directed to transfer the 50% amount to the Court of learned Member, MACT, Akola and the said amount will be withdrawn by them at Akola.

In view of this, Registrar (J.) is hereby directed to transfer the 50% of the amount deposited by the insurance

company to the MACT, Akola and respondent Nos.1 and 2 will be entitled to withdraw the said amount from the said Court by giving an undertaking and after the said undertaking is furnished, learned Member, MACT, Akola is directed to transmit the said undertaking before this Court.

JUDGE

!! BRW !!

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