

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

**CIVIL APPLICATION NO. 3105 OF 2018
IN
FIRST APPEAL (ST.) NO.14821 OF 2018**

National Insurance Co. Ltd.Applicant
V/s.
Swati Vinayak Pawar and ors.Respondents

**WITH
CIVIL APPLICATION (ST.) NO.12957 OF 2019
IN
FIRST APPEAL (ST.) NO.14821 OF 2018**

Swati Vinayak Pawar and ors.Applicants

In the matter between :-

National Insurance Co. Ltd.Appellant
V/s.
Swati Vinayak Pawar and ors.Respondents

Ms. S.S. Dwivedi for the applicant in CAF/3105/2018
and for the appellant in FAST/14821/2018 and for the
respondent in CAFST/12957/2019.

Mr. Sarthak Diwan i/b. Mr. Akshay A. Kulkarni for
respondent nos.1 to 3 and for the applicant in CAFST/12957/2019.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 27th AUGUST, 2019**

P.C.:-

ORDER IN CIVIL APPLICATION NO. 3105 OF 2018 :-

. The applicant herein has sought to condone the delay of 60 days
in filing the appeal against the judgment and award dated 15/09/2017
passed by the learned Member, MACT, Kolhapur in MACP

No.176/2013. The learned counsel for respondent nos.1 to 3 who are the original claimants has no objection for condoning the delay.

2. In the light of said statement and in view of the reasons stated in the civil application, the delay is condoned. Appeal be registered after removal of office objections, if any.

3. Civil Application No.3105/2018 stands disposed of.

ORDER IN CIVIL APPLICATION (ST.) NO. 12957 OF 2019 :-

4. The applicant has sought withdrawal of compensation deposited by the respondent – insurance company in view of the judgment and award dated 15/09/2017 passed by the learned Member, MACT, Kolhapur in MACP No.176/2013.

5. By the impugned judgment and award, the Claims Tribunal has awarded compensation of Rs.10,89,000/- with interest @ 9% p.a. from the date of application till its realization. Out of the said amount, Rs.5,00,000/- is ordered to be paid to the applicant nos.2 and 3 who are the minor children of the deceased.

6. The applicant no.1 states that the deceased was the sole earning

member of the family and that it is difficult for her to meet day to day expenses. She states that she requires money to meet educational and other expenses of the applicant nos.2 and 3. She has stated that she has no other source of income.

7. Considering the reasons stated in the application and the grounds stated in the appeal memo, an amount of Rs.3,00,000/- along with proportionate interest accrued thereon is ordered to be paid to the applicant no.1 – Smt. Swati Vinayak Pawar. An amount of Rs.50,000/- each with proportionate interest accrued thereon is ordered to be paid to the applicant nos.2 and 3 (*Pratik and Pratiksha Vinayak Pawar*) to enable the applicant no.1 to meet their educational and other expenses.

8. Suffice it to say that the payment / withdrawal of the compensation is subject to the final outcome of the appeal. The applicants shall give an undertaking to the Claims Tribunal, Kolhapur that they shall refund the amount with interest in the event the appellant – insurance company succeeds in the appeal. The Tribunal to re-invest the balance amount of compensation in any nationalized bank until further orders.

9. Civil Application (St.) No.12957 of 2019 stands disposed of.

ORDER IN FIRST APPEAL (ST.) NO.14821 OF 2018 :-

10. Mr.Sarthak Diwan, learned counsel waives service on behalf of respondent nos.1 to 3. The learned counsel for the applicant/appellant states that no statutory defence is raised and that the notice to respondent nos.4 and 5 be dispensed with. Notice to respondent nos.4 and 5 is dispensed with.

11. With consent of the parties, Appeal is referred to Lok Adalat. Registrar (Judicial-II) to place the matter to Lok Adalat scheduled on 14/09/2019.

(SMT. ANUJA PRABHUDESSAI, J.)