

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

Civil Application No.2016/2013  
in  
First Appeal No.616/2013

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|-----------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders.                                                                                                   |
|                                                                                                           | Mr. S. M. Dange for the Applicant<br>Mr. Saurabh Uttangale with Chetan Mhatre i/b Uttangale & Co. for Respondent Nos.1 to 3. |

**CORAM : K.K.TATED, J.**  
**DATED : JULY 4, 2019**

**P.C.**

1 Heard. By this Civil Application, the Applicant Insurance Company is seeking stay to the the operation and implementation of the impugned judgment and award dated 11.05.2012 passed by the MACT Solapur in MACP No.29/2007.

2 The learned counsel for the Applicant submits that as per order dated 26.07.2013 they have already deposited the entire awarded amount with interest in the Tribunal. The statement is accepted.

3 The learned counsel for the Applicant submits that this court, by order dated 26.07.2013 permitted the Respondent - Claimant to withdraw sum of Rs.5 lacs without furnishing any security.

4 The learned counsel for the Applicant submits that pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be pleased to allow the Civil Application and direct the Tribunal to invest the remaining amount in the fixed deposit.

5 On the other hand, the learned counsel for the Respondent - Claimant has vehemently opposed the Civil Application. He submits that in the present proceedings, in an accident which occurred on 01.01.2006 the claimant has lost her husband Shamsundar Jaikisan Rathi. On the date of accident he was 41 years old. He was earning near about Rs. 5 lacs p.a. Hence, the claimant filed claim petition u/s.166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.60 lacs with interest. He submits that claimant No.2 and 3 were minor on the date of filing the claim petition. He submits that now the

claimant Nos.2 and 3 are major and they need amount for their higher education. Claimant No.1 is housewife. She needs some money for their livelihood. He submits that as per order dated 26.07.2013 they withdrew Rs.5 lacs only. Hence, the Respondent - Claimant be permitted to withdraw the remaining amount.

6 Considering the submissions made by the learned counsel for the Applicant and as the amount is deposited by the Applicant Insurance Company, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

7 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) which reads thus:

*“a) Pending hearing and final disposal of the First Appeal the order dated 11.05.2012 passed by the Hon’ble Chairman, Motor Accident*

*Claims Tribunal, Solapur, at Solapur, in Motor Accident Claims Petition No.29/2007 passed under S.166 of M.V.Act, be stayed."*

b. The Tribunal is directed to invest the remaining award amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year, if it is not done, and same shall be renewed from time to time till hearing and final disposal of the appeal.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits

d. Civil application stands disposed off accordingly.

e. No order as to costs.

**(K.K.TATED, J.)**