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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.4296 OF 2015 IN
FIRST APPEAL ST.NO.1089 OF 2015

The National Insurance Co.Ltd. ...Applicant
vs.
Smt.Anuja Ramachal Patel & Ors. ...Respondents

Ms Poonam Mittal for the Applicant

CORAM :K.K.TATED,J.
DATE : AUGUST 27, 2019

P.C.:

1 Heard the learned counsel for the applicant. By this application the applicant is seeking stay of operation and implementation Judgment and Award dated 2nd August 2014 passed by MACT,Mumbai in Claim Petition No.2370 of 2007 holding that the claimants are entitled to compensation of Rs.11,86,671/- with interest at the rate of 7.5% p.a.

2 The learned counsel for the applicant submits that they have challenged the impugned Judgment on quantum basis. She submits that the compensation awarded by the Tribunal is on higher side. She further submits that if the entire amount is recovered by the respondents by filing execution application, then nothing survives in the present application. She submits that the applicant is ready

and willing to deposit the entire amount with interest within three weeks from today. Statement is accepted. She submits that pending the final disposal of the present First Appeal, this Court be pleased to stay the operation and implementation of the impugned Judgment.

3 It is to be noted that in the present proceedings accident occurred on 3rd July 2007. Claimant No.1 lost her husband and the claimant Nos.2 and 3 lost their father. At the time of accident the age of the deceased was 45 years. He was running the medical shop under the name and style of Ashish Medical and General Stores, Kandivali, Mumbai. He was earning nearby 1,10,943/- p.a from his business. Considering this aspect, the claimant No.1-wife and claimant Nos.3 and 4 being minors, I am of the opinion that they can be permitted to withdraw the amount.

4 Hence I pass the following order :

(a) The operation and implementation of the impugned Judgment and Award dated 2nd August 2014 passed by MACT, Mumbai in Claim Petition No.2370 of 2007 is stayed during the pendency of the First Appeal with condition that the Applicant to deposit entire compensation amount with interest in MACT, Mumbai on or before 21st September 2019 failing which Civil Application shall stand dismissed.

(b) If the entire amount of compensation with

interest is deposited within stipulated time, Applicant No.1-Smt.Anuja Ramachal Patel and claimant No.2-Master Gaurav Ramachal Patel are entitled to withdraw a sum of Rs.2 lakh each with accrued interest thereon without furnishing any security subject to final outcome of the First Appeal.

(c)The Tribunal is directed to invest remaining amount in Fixed deposit in any nationalised bank initially for a period of one year and to continue till further order.

(d)Liberty is granted to the respondents- claimants, if they so desire, to apply for withdrawal of the amount, which shall be decided on its own merits.

(e)Civil Application is disposed of with no order as to costs.

(K.K.TATED,J.)