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

**CIVIL APPLICATION NO. 3206 OF 2018
IN
FIRST APPEAL NO. 957 OF 2018**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Vikrant V. Parshurami for the Applicant.

CORAM : K. K. TATED, J.
DATE : 3rd APRIL, 2019.

P. C. :

1. Heard learned Counsel for the Applicant.
2. By this Civil Application, the Applicant-Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 23.08.2017 passed by Motor Accident Claim Tribunal, Malegaon in Motor Accident Claim Petition No. 130 of 2015 holding that the Respondents-Claimants are entitled for compensation of Rs.2,30,000/- with interest @ 9% p.a.
3. Learned Counsel for the Applicant submits that the Insurance Company is ready and willing to deposit the entire awarded amount within four weeks from today. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned Judgment and Award. He submits that if the entire amount is

withdrawn by the Respondents, nothing will survive in the present First Appeal.

4. It is to be noted in the present proceeding, in an accident which occurred on 09.05.2015, the Respondents-Claimants lost their minor son. Considering this fact and the Judgment and Award passed by the trial Court, I am of the opinion that the Claimants are entitled to withdraw some amount during the pendency of the First Appeal.

5. Hence, the following order:

(i) Civil Application is allowed in terms of prayer Clause (a) on condition that the Applicant to deposit the entire awarded amount along with interest in the Tribunal on or before 03.05.2019, failing which, the Civil Application shall stand dismissed without referring back to this Court. Prayer Clause (a) reads thus:

“(a) During the pendency and final disposal of the accompanying First Appeal, the operation, implementation and execution of the order dated 23.08.2017 passed by the Learned Judge, Motor Accident Claims Tribunal, Malegaon in MAC Petition No. 130 of 2015”.

(ii) Registry is directed to transfer sum of Rs.25,000/- deposited by the Applicant at the time of filing of First Appeal with accrued interest to the MACT, Malegaon in the account of MACP No. 130 of 2015 immediately.

(iii) Claimant No.1-Sou Varsha Haribhau Khairnar and

Claimant No.2-Haribhau Gulab Khairnar are entitled to withdraw 15% amount each without furnishing any security but subject to outcome of the First Appeal.

(iv) The Tribunal is directed to invest the amount in a fixed deposit in any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till further orders.

(v) Liberty granted to the Respondents-original Claimants, if they so desire, to prefer an appropriate application for withdrawal of remaining amount, which will be decided on its own merits.

(vi) The Civil Application is disposed of accordingly.

(vii) No order as to costs.

[K. K. TATED, J.]