

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

**CIVIL APPLICATION NO. 2559 OF 2016
WITH
CIVIL APPLICATION NO. 2560 OF 2016
IN
FIRST APPEAL (ST.) NO. 10888 OF 2016**

The Oriental Insurance Co. Ltd.Applicant
V/s.
Kamal Shankar Sawant and ors.Respondents

**WITH
CIVIL APPLICATION NO. 1044 OF 2019
IN
FIRST APPEAL (ST.) NO. 10888 OF 2016**

Kamal Shankar SawantApplicant

In the matter between :-

The Oriental Insurance Co. Ltd.Appellant
V/s.
Kamal Shankar Sawant and ors.Respondents

Ms. Poonam Mital for the applicant in CAF/2559/2016,
CAF/2560/2016 and for the appellant in FAST/10888/2016
and for the respondent in CAF/1044/2019.
Mr. Vishwajeet Kapse i/b. Mr. Shailesh D. Chavan for respondent no.1
and for the applicant in CAF/1044/2019.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 30th SEPTEMBER, 2019**

P.C.:-

ORDER IN CIVIL APPLICATION NO. 2559 OF 2016 :-

1. The learned counsel for the applicant states that no statutory

defense is raised and notice to respondent nos.2 and 3 be dispensed with. In the light of said statement, notice to respondent nos.2 and 3 is dispensed with.

2. By this application, the applicant / insurance company has sought to condone the delay of 35 days in filing the first appeal against the judgment and award dated 20/11/2015 passed by the learned Chairman, MACT, Satara in MACP No.369/2012.

3. In view of the reasons stated in paragraph 3 of the application which in my considered view constitute sufficient grounds, delay is condoned subject to payment of cost of Rs.2,000/- to be paid to Juvenile Justice Fund. Appeal be registered subject to payment of cost and removal of office objections, if any.

4. Civil Application No.2559 of 2016 stands disposed of.

ORDER IN CIVIL APPLICATION NO. 2560 OF 2016 :-

5. The learned counsel for the appellant / insurance company states that the entire compensation as per the impugned judgment and award

dated 20/11/2015 passed by the learned Chairman, MACT, Satara in MACP No.369/2012. The said statement is not disputed by the learned counsel for the respondent no.1.

6. In the light of said statement, execution and implementation of the impugned judgment and award dated 20/11/2015 is stayed till the disposal of the appeal.

7. Civil Application No.2560 of 2016 stands disposed of.

ORDER IN CIVIL APPLICATION NO. 1044 OF 2019 :-

8. By this application, the applicant has sought withdrawal of the compensation deposited by the appellant / insurance company before the MACT, Satara in MACP No.369/2012.

9. The deceased was 28 years of age, earning Rs.80,000/- per month. He had expired in a motor vehicular accident on 05/05/2011 leaving behind the respondent no.1 / claimant (the sole dependent). Upon considering the evidence on record, the Claims Tribunal has awarded total compensation of Rs.1,04,30,319/- including NFL amount

of Rs.50,000/- with interest @ 9% p.a. from the date of the application till realization of the same.

10. The applicant / original claimant has stated that she is 59 years of age and has health related issues. She has further stated that she has no other source of livelihood and that she needs money for her day to day expenses including medical expenses.

11. Considering the reasons stated by the applicant as well as the grounds raised in the appeal memo, 40% of the compensation along with proportionate interest accrued thereon is ordered to be paid to the applicant / original claimant – Kamal Shankar Sawant. The Tribunal to invest the balance amount in any nationalized bank until disposal of the appeal.

12. Suffice it to say that the payment of compensation is subject to the final outcome of the appeal. The applicant shall give an undertaking before the Claims Tribunal, Satara that she shall abide by the order that may be passed in the appeal.

13. Civil Application No.1044 of 2019 stands disposed of.

ORDER IN FIRST APPEAL (ST.) NO. 10888 OF 2016 :-

14. Mr. Vishwajeet Kapse, learned counsel waives service on behalf of respondent no.1. Notice to respondent nos.2 and 3 is dispensed with.

Preeti H.
Jayani

Digitally signed by
Preeti H. Jayani
Date: 2019.10.01
15:48:43 +0530

Appeal be listed on 04/11/2019.

(SMT. ANUJA PRABHUDESSAI, J.)