

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

**CIVIL APPLICATION NO. 3920 OF 2018
IN
FIRST APPEAL (ST.) NO. 20154 OF 2018
WITH
FIRST APPEAL (ST.) NO. 20154 OF 2018**

The New India Assurance Co. Ltd.Applicant
V/s.
Nilima Santosh Gulunjkar and ors.Respondents

**WITH
CIVIL APPLICATION NO. 1034 OF 2019
IN
FIRST APPEAL (ST.) NO. 20154 OF 2018**

Nilima Santosh Gulunjkar and ors.Applicants
In the matter between :-
The New India Assurance Co. Ltd.Appellant
V/s.
Nilima Santosh Gulunjkar and ors.Respondents

Ms. Shalini Shankar for the applicant in CAF/3920/2018 and
for the appellant in FAST/20154/2018 and for the respondent
in CAF/1034/2019.
Mr. Rajesh A. More for respondent nos.1 to 5 and for the applicants
in CAF/1034/2019.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 16th OCTOBER, 2019**

P.C.:-

ORDER IN CIVIL APPLICATION NO. 3920 OF 2018 :-

1. The learned counsel for the applicant states that though the

appellant – insurance company has raised several grounds, challenge is restricted only to the quantum of compensation. She therefore states that the notice to respondent no.6 be dispensed with. In the light of said statement, notice to respondent no.6 is dispensed with.

2. By this application, the applicant has sought to condone the delay of 149 days in filing the appeal against the judgment and award dated 16/11/2017 passed by the Motor Accident Claims Tribunal, Pune in MACP No.654/2012.

3. In view of the reasons stated in the application, delay is condoned subject to payment of costs of Rs.2,000/- to be paid to Juvenile Justice Fund. Mr. Rajesh More, learned counsel waives service on behalf of respondent nos.1 to 5. Appeal be listed 'for admission' on 27/11/2019.

4. Civil Application No.3920 of 2018 stands disposed of.

ORDER IN CIVIL APPLICATION NO. 1034 OF 2019 :-

5. By this application, the applicants have prayed for withdrawal of the compensation awarded by the Claims Tribunal, Pune in MACP

No.654/2012.

6. By the impugned judgment and award, the Claims Tribunal has awarded total compensation of Rs.38,00,000/- inclusive of no fault liability with interest @ 9% p.a. from the date of the application till realization of the amount.

7. Out of the total compensation, 30% of the compensation in addition Rs.40,000/- towards loss of consortium is ordered to be paid to the applicant no.1, 25% of total compensation is ordered to be paid to the applicant nos.2 and 3 each and 10% each to the applicant nos.4 and 5.

8. The applicants herein who are the original claimants had filed the said claim petition in view of the death of Santosh Gulunekar who had expired as a result of the injuries sustained in a motor vehicular accident. The applicants have stated that they are in need of money to meet their day to day expenses including educational expenses of the applicant nos.2 and 3 and medical expenses of applicant nos.4 and 5 who are senior citizens and have several ailments.

9. Considering the reasons stated in the application as well as grounds raised in the appeal memo, total compensation of Rs.6,00,000/- (Rupees Six Lakhs) is ordered to be paid to the applicant no.1. Rs.2,00,000 (Rupees Two Lakhs) each along with proportionate interest accrued thereon is ordered to be paid to the applicant nos.4 and 5. The applicant nos.2 and 3 are minor and hence, I am not inclined to allow withdrawal on their behalf at this stage.

10. It is made clear that the payment of compensation is subject to the final outcome of the appeal. The applicants shall give an undertaking before the Tribunal that they shall abide by the order that may be passed in the appeal.

11. Civil Application No.1034 of 2019 stands disposed of.

Preeti H.
Jayani

Digitally signed by
Preeti H. Jayani
Date: 2019.10.22
17:14:38 +0530

(SMT. ANUJA PRABHUDESSAI, J.)