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

**CIVIL APPLICATION NO. 1290 OF 2019
IN
FIRST APPEAL (STAMP) NO. 7106 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. Nikhil Mehta I/b KMC Legal Venture for the Applicant.

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

P. C. :

1. Not on board. At the request of learned Counsel for the Applicant, taken on production board.
2. Heard learned Counsel for the Applicant.
3. Learned Counsel for the Applicant submits that by this Civil Application, the Applicant-Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 26.09.2018 passed by Motor Accident Claim Tribunal, Mumbai in Application No. 1859 of 2014 holding that the Respondents-Claimants are entitled for compensation of Rs.31,90,615/- with interest @ 7.5% p.a. from the date of application till its realisation.
4. Learned Counsel for the Applicant submits that there is urgency in the present matter because the Respondents filed execution application in which the Execution Court issued attachment warrant. Learned Counsel

for the Applicant submits that he received instruction from his client that they are ready and willing to deposit the entire amount awarded along with interest and costs, if any, in the Tribunal within four weeks from today. Statement is accepted.

5. In the present proceeding, in an accident occurred on 22.10.2014, original Claimant No.1 lost her husband and Claimant No.2 is a son of the deceased.

6. Considering the reason given by the Tribunal in its Judgment and Award dated 26.09.2018, I am of the opinion that the Respondents-Claimants may be permitted to withdraw some amount without furnishing any security, but subject to outcome of the First Appeal. Hence, the following order:

(i) Civil Application is allowed in terms of prayer Clause (a) on condition that the Applicant to deposit the entire amount awarded in the Tribunal on or before 02.05.2019, failing which the Civil Application shall stand dismissed without referring back to this Court. Prayer Clause (a) reads thus:

“(a) That this Hon'ble Court be pleased to stay the effect/execution/operation and implementation of the Judgment and Award dated 26.09.2018 passed by Motor Accident Claim Tribunal, Mumbai in M.A.C.T. Application No. 1859 of 2014 by SMT. N. U. KAPADI – Member, MACT Mumbai.”

(ii) Sum of Rs.25,000/- deposited by the Insurance Company at the time of filing of the First Appeal, in the Registry of this

Court, be transferred to the Motor Accident Claim Tribunal, Mumbai in the account of Application No. 1859 of 2014 with accrued interest immediately.

(iii) If the amount is deposited within stipulated time as above, original Claimant No.1-Smt. Deepa Satish Dongre and Claimant No.2-Akhil Satish Dongre are entitled to withdraw sum of 20% amount of total compensation each without furnishing any security, but subject to outcome of the First Appeal.

(iv) The Tribunal is directed to invest the remaining amount in a fixed deposit of 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 stands disposed of accordingly.

[K. K. TATED, J.]