

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

**CIVIL APPLICATION NO. 3364 OF 2019
IN
FIRST APPEAL (ST.) NO. 9242 OF 2019**

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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Ayodhya Patki i/b Nitesh Bhutekar for the Applicant.

**CORAM: K.K.TATED, J.
DATED : OCTOBER 15, 2019**

P.C.

1 Heard.

2 By this Civil Application, Applicant Insurance Company is seeking stay of the judgment and award dated 18/09/2017 passed by the MACT, Vasai in MACP No. 105/2009 holding that the Respondents/Original Claimants are entitled a sum of Rs. 3,25,000/- by way of compensation with interest @ 9% p.a.

3 The learned Counsel for the Applicant submits that she received instructions from his client that they are ready and willing to deposit the entire amount with interest within four weeks from today. She submits

that, pending the hearing and final disposal of the First, Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal. She submits that if the stay is not granted irreparable loss will cause to them.

4. It is to be noted that, in the present proceeding, in the accident which occurred on 11/05/2009, the Claimant No. 1 lost her husband. On the date of accident he was 42 years old. Hence, the Claimant filed application under Section 166 of the Motor Vehicles Act claiming the compensation against the Applicant and other Respondents.

5. Considering the fact that, Claimant No.1 lost her husband and Claimant No. 2 was at the time of filing Claim Petition before MACT, was minor and as there is delay on the part of the Applicant to file the present First Appeal before this Court, I am of the opinion that, the Claimant can be permitted to withdraw some amount without furnishing any security but subject to outcome of the First Appeal.

6 Hence, the following order is passed:

A. Civil Application is allowed in terms of prayer clause (a) on a condition that the Applicant to deposit the entire awarded amount with interest in Tribunal on or before 16/11/2019, failing which, the Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a) reads thus:

“a. Be pleased to stay the effect, implementation and execution of Judgment and award dated 18.09.2017 in MACP No. 105/2009 passed by the Learned Motor Accident Claims Tribunal, Vasai, District Thane.”

B. If the amount is deposited within time, the Original Claimant No.1 **Jennifer Alex D'Silva** is entitled to withdraw Rs. 1,75,000/- amount of compensation with accrued interest without furnishing any security but subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the balance amount in fixed deposit of any Nationalized bank, initially for a period of one year and same to be continued till further order.

d. Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an

appropriate application for withdrawal of further amount and that to be decided on its own merits.

e. Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K.TATED, J.)