

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

Civil Application No.2221/2019

in

First Appeal No.715/2019

Office Notes, Office  
Memoranda of Coram,  
appearances, Court's  
orders or directions  
and Registrar's orders

Court's or Judge's orders.

Mr. Nikhil Mehta I/b. KMC Legal Venture for  
the Applicant

**CORAM : K.K.TATED.J.**  
**DATED : JUNE 24, 2019**

**P.C.**

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application No.71/2019 for recovery of the amount in MACP No.638/2015. He submits that if the entire amount is recovered by the claimants nothing will survive in the present proceedings.

3 The learned counsel for the Applicant submits that the Tribunal has awarded the compensation on higher side. He submits

that the Tribunal has not considered the contributory negligence while deciding the matter. The learned counsel for the Applicant 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 till hearing and final disposal of the First Appeal.

4 The learned counsel for the Applicant submits that he received instructions from their client that they are ready and willing to deposit the entire awarded amount in the Tribunal within six weeks from today. The undertaking is accepted.

5 It is to be noted that in the present proceedings, in an accident, the Respondent No.1 lost her husband who was working as a General Manager, HR Department . and was earning Rs.14,18,258.73 p.a. On the date of accident he was 47 years old. Hence, the claimants filed the claim petition u/s.166 of the Motor Vehicles Act claiming compensation of Rs.16,00,000/-. On the date of filing the application, the claimant No.3 was minor. He submits that claimant Nos.2 and 3 are taking education and

claimant No.1 is housewife and taking classes.

6 Considering these facts and as claimant Nos.2 and 3 are taking education, I am of the opinion that they can be permitted to withdraw some amount during pendency of the First Appeal.

7 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 20.07.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus

*“(a) That this Hon'ble Court be pleased to stay the execution, judgment and award dated 17.11.2018 passed in MACT application No.638/2015 by Learned Member M.S.Bodhankar, MACT, Nashik @ Nashik.”*

b. If amount is deposited within stipulated time as stated hereinabove, claimants are entitled to withdraw the amount of compensation as mentioned

below, without furnishing any security,  
subject to outcome of the First Appeal.

(i) Claimant No.1 Vandana Santosh  
Bhandari - 20%

(ii) Claimant No.2 Kum. Nidhi Santosh  
Bhandari - 5%

(iii) Claimant No. Kum. Ridhi Sanotsh  
Bhandari - 5%

c. The Tribunal is directed to invest the  
remaining amount in a fixed deposit  
account of any Nationalized Bank, initially  
for a period of one year and same shall be  
renewed from time to time till hearing and  
final disposal of the appeal.

d. Liberty granted to the claimants to  
prefer an appropriate Application for  
withdrawal of further amount, if they so  
desire, which will be decided on its own  
merits

e. The Civil Application stands disposed  
of accordingly.

f. No order as to costs.

**(K.K.TATED, J.)**

