

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

**CIVIL APPLICATION NO. 64 OF 2017
IN
FIRST APPEAL NO. 11 OF 2017**

Mr. Padmakar Gavaji Pathare Applicant
V/s.
Smt. Nirmala Sanjay Pagare & Ors. ... Respondents
.....
Adv. Sneha G. Sanap for Applicant.
.....

**CORAM : K.K.Tated, J.
DATE : 30th September, 2019**

P.C. :

1. Heard learned counsel for the applicant.
2. By this Civil Application the applicant/original owner of the offending vehicle seeks stay of operation and implementation of the impugned Judgment and Award dated 28th April, 2016 passed by the Motor Accident Claims Tribunal, Nashik in Motor Accident Claim Application No. 972 of 2013, holding that, the respondent/claimant is entitled sum of Rs. 34,58,795/- by way of compensation with interest @ 7% p.a.
3. The learned counsel for the applicant submits that, if entire

amount is recovered by the respondent by filing execution application,

nothing will survive in the present proceeding. 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 impugned Judgment and Award. She submits that, if stay is not granted, irreparable loss and injury would be caused to the applicant.

4. Considering the submission made by the learned counsel for the applicant, averment made in Civil Application and perusing the impugned Judgment and Award, I am satisfied that applicant has made out a case for allowing this Civil Application. It is made clear that, applicant have to deposit entire awarded amount in Tribunal with interest. Hence, following order.:

: ORDER :

a) Operation and implementation of the impugned Judgment and Award dated 28th April, 2016 passed by the Motor Accident Claims Tribunal, Nashik in Motor Accident Claim Application No. 972 of 2013 is stayed, on condition that, applicant to deposit entire awarded amount with interest in Tribunal on or before 16th November 2019 failing which Civil Application shall stand dismissed without referring back to the Court.

b) If amount is deposited within stipulated time as stated herein above, the claimant No.1 Nirmala Sanjay Pagare is

entitled to withdraw sum of Rupees Ten Lakhs with accrued interest without furnishing any security, but subject to outcome of the First Appeal.

c) Claimant No.5 Kalyabai Pundalik Pagare is entitled to withdraw sum of Rs. Two Lakhs with accrued interest without furnishing any security but subject to outcome of the First Appeal.

d) If amount is deposited within time, 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.

e) Liberty is granted to the respondent/claimant if they so desires to prefer an appropriate application for withdrawal of the further amount and that will be decided on its own merits.

f) Civil Application is allowed accordingly.

g) No order as to costs.

(K.K.Tated, J.)