

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

**CIVIL APPLICATION NO. 3830 OF 2018
IN
FIRST APPEAL (ST.) NO. 27805 OF 2018**

Reliance General Insurance Co. Ltd.Applicant
V/s.
Kishor Muljibhai Kothari and ors.Respondents

**CIVIL APPLICATION NO. 2575 OF 2019
IN
FIRST APPEAL (ST.) NO. 27805 OF 2018**

Kishor Muljibhai Kothari and anr.Applicants

In the matter between :-

Reliance General Insurance Co. Ltd.Appellant
V/s.
Kishor Muljibhai Kothari and ors.Respondents

Ms. Shalini Shankar for the applicant / appellant.
Mrs. Kavita Aanchan for respondent nos.1 and 2 and for the
applicant in CAF/2575/2019.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 04th OCTOBER, 2019**

P.C.:-

ORDER IN CIVIL APPLICATION NO. 3830 OF 2018 :-

. By this application, the applicant / insurance company has sought to condone the delay of 188 days in filing the first appeal against the judgment and award dated 09/10/2017 passed by the MACT, Mumbai in MACP No.1431/2012. The learned counsel for the

respondent nos.1 and 2 has no objection for condoning the delay. Respondent no.3 has not contested the proceedings though duly served.

2. Considering the statement made by the learned counsel for respondent nos.1 and 2 and also the reasons stated in the application, which in my considered view constitute sufficient ground, delay is condoned subject to payment of costs of Rs.4,000/- to be paid to Juvenile Justice Fund. Appeal be registered subject to payment of costs and removal of office objections, if any. Mrs. Kavita Aanchan, learned counsel waives service on behalf of respondent nos.1 and 2. Appeal be listed for admission on 18/11/2019.

3. Civil Application No.3830 of 2018 stands disposed of.

ORDER IN CIVIL APPLICATION NO. 2575 OF 2019 :-

4. The applicants herein have sought withdrawal of the compensation deposited by the appellant – insurance company in compliance of the judgment and award dated 09/10/2017 passed by the MACT, Mumbai in MACP No.1431/2012. By the impugned judgment, the Claims Tribunal has awarded compensation of Rs.6,57,000/- inclusive of no fault liability with interest @ 9% p.a.

from the date of institution of the claim till realization.

5. The applicants are the parents of the deceased who expired as a result of the injuries sustained in the motor vehicular accident. The applicants have stated that the deceased was the sole earning member of the family and that they were dependent on the income of the deceased. They have further stated that they have no other source of income and they have to face financial difficulties.

6. Having considered the reasons stated in the application and also the grounds raised in the appeal memo, 60% of the compensation along with proportionate interest accrued thereon is ordered to be paid to the applicant nos.1 and 2. The Tribunal to invest the balance amount in any nationalized bank till the disposal of the appeal.

7. It is made clear that the payment of compensation is subject to the final outcome of the appeal. The applicant nos.1 and 2 shall give an undertaking before the Tribunal that they shall abide by the order that may be passed in the appeal.

8. Civil Application No.2575 of 2019 stands disposed of.

Preeti H.
Jayani

Digitally signed by
Preeti H. Jayani
Date: 2019.10.10
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(SMT. ANUJA PRABHUDESSAI, J.)