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

**CIVIL APPLICATION NO. 835 OF 2017
IN
FIRST APPEAL NO. 256 OF 2017**

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. A. P. Kulkarni 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. By this Civil Application, the Applicant-Insurance Company is seeking stay of the operation and implementation of the impugned Judgment and Award dated 17.03.2016 passed by Motor Accident Claim Tribunal, Pune in Motor Accident Claim Petition No. 9 of 2013 holding that the Respondents-Claimants are entitled for compensation of Rs.3,69,500/- with interest @ 9% p.a.
3. Learned Counsel for the Applicant submits the Respondents have filed Application for recovery of entire amount. If the entire amount is recovered by the Respondents, then nothing will survive in the present proceeding. Hence, in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned

Judgment and Award dated 17.03.2016 passed by Motor Accident Claim Tribunal, Pune in Motor Accident Claim Petition No. 9 of 2013. He further submits that, he received instruction from his client that they are ready and willing to deposit the entire amount awarded in the Tribunal within four weeks from today.

4. It is to be noted that in an accident occurred on 02.12.2012 original Claimant No.1 lost her husband. Therefore, she filed Claim Petition before the Tribunal for sum of Rs.3,69,500/-. Considering the fact that Claimant Nos.2, 3 and 4 are students and they are taking education, I am of the opinion that the Claimants to be permitted to withdraw some amount without furnishing any security.

5. Hence, following order:

(i) Civil Application is allowed in terms of prayer Clause (a) on condition that the Applicant to deposit the entire amount awarded along with interest and costs, if any, in the Tribunal on or before 03.05.2019, failing which, the Civil Application shall stand dismissed without referring back to this Court. Prayer Clause (a) reads thus:

“(a) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned Judgment and Award dated 17/03/2016 passed by the Motor Accident Claim Tribunal, Pune in M. A. C. P. No. 09 of 2013 and disbursal of amount thereunder, be kindly stayed.”

(ii) If the amount is deposited within stipulated time as above,

the Claimants are entitled to withdraw 60% amount without furnishing any security as per their share fixed by the Tribunal, but subject to outcome of the First Appeal.

(iii) 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.

(iv) Liberty granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of remaining amount, which will be decided on its own merits.

(v) The Civil Application is disposed of accordingly.

(vi) No order as to costs.

[K. K. TATED, J.]