

Amk

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

**CIVIL APPLICATION NO. 2846 OF 2017
IN
FIRST APPEAL (STAMP) NO. 24151 OF 2017**

The New India Assurance Co. Ltd. .. Applicant
Vs.
Shr Hemraj Dulchand Jain & Ors. .. Respondents

Ms. Aarti Taware I/b Milind V. More for the Applicant.
Mr. Omkar Paranjape I/b Avinash M. Gokhale for Respondent Nos.1 to 3.

CORAM : K. K. TATED, J.
DATE : 3rd APRIL, 2019.

P. C. :

1. Heard learned Counsel for the parties.
2. By this Civil Application, the Applicant is seeking stay of the impugned Judgment and Award dated 07.01.2017 passed by the Motor Accident Claim Tribunal, Mumbai in Application No.2947 of 2010.
3. Learned Counsel for the Applicant submits that they have already deposited the entire amount in the Tribunal. Statement is accepted. She submits that if the entire amount is withdrawn by the Respondents, then nothing will survive in the present First Appeal. She 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 during the pendency of First Appeal.
4. On the other hand, learned Counsel appearing on behalf of the Respondents-original Claimants submits that Civil Application NO. 2838 of

2018 is filed by them for withdrawal of amount and that to be decided on its own merits.

5. Considering the submission made by the learned Counsel for the Applicant, averments in the Civil Application and as the entire amount is deposited by the Applicant in the Tribunal, I am satisfied that the Applicant has made out case for allowing the Civil Application.

6. Hence, the following order:

(i) Civil Application is allowed in terms of prayer Clause (a) which reads thus:

(a) To stay the execution of the Judgment and Award dated 07th January, 2017 passed by the Learned Member, Motor Accident Claim Tribunal at Mumbai in Motor Accident Claim Petition No. 2947 of 2010.

(ii) The Tribunal is directed to invest the amount in a fixed deposit in any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till further orders.

(iii) Civil Application preferred by the Respondent-Claimants to be heard on its own merits.

(iv) The Civil Application is disposed of accordingly.

[K. K. TATED, J.]