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

**CIVIL APPLICATION NO. 446 OF 2018  
IN  
FIRST APPEAL (STAMP)NO. 29275 OF 2017**

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| 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. Rahul Mehta I/b KMC Legal Venture for the Applicant.

**CORAM : K. K. TATED, J.**  
**DATE : 3<sup>rd</sup> APRIL, 2019.**

**P. C. :**

1. Heard learned Counsel Shri Mehta for the Applicant.
2. By this Civil Application, the Applicant-Insurance Company is seeking stay of the operation and implementation of the impugned Judgment and Award dated 15.04.2017 passed by Motor Accident Claim Tribunal, Raigad-Alibag in Motor Accident Claim Petition No. 284 of 2013.
3. Learned Counsel for the Applicant submits that he received instruction that Insurance Company is ready and willing to deposit the entire awarded amount in the Tribunal within four weeks from today. Statement is accepted.
4. It is to noted that in the present proceeding, an accident occurred on 19.05.2013 The Respondent-Claimant sustained injury and because of that he suffered 70% permanent disability. This fact is recorded by the Tribunal in paragraph 12 of the Judgment which reads thus:

*“12. In order to prove permanent disability, petitioner has examined P. W. No.2 – Dr. Gawali. Dr. Gawali has deposed that on 06.07.2015, he examined petitioner and also perused his medical treatment papers. On examination, it was found that petitioner's left leg was amputated from above knee. He has opined that, petitioner is having 70% permanent disability. He has proved disability certificate (Exh.13) and also stated that, petitioner is required to use artificial leg. In cross-examination, he has admitted that he has not medically treated petitioner and at the time of examination, petitioner did not have artificial leg. He has denied other material suggestions.”*

5. Considering this fact, the Respondent/Claimant is entitled to withdraw some amount during the pendency of the First Appeal. Hence, following order :

(i) Civil Application is allowed in terms of prayer Clause (a) on condition that the Applicant to deposit the entire awarded amount 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 this Hon'ble Court be pleased to stay the Effect/Execution/Operation and Implementation of the Judgment and Award dated 15.04.2017 passed in M.A.C.T. Application No. 284 of 2013 by Shri R. V. Utpat, MACT, Raigad @ Alibag.”*

(ii) If the amount is deposited within stipulated time as stated above, the Respondent-Claimant is entitled to withdraw 50%

amount without furnishing any security but subject of 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) Sum of Rs.25,000/- deposited by the Insurance Company at the time of filing of the First Appeal, in the Registry of this Court, be transferred to the Motor Accident Claim Tribunal, Raigad-Alibag in the account of Motor Accident Claim Petition No. 284 of 2013 with accrued interest, if any, immediately.

(v) Liberty granted to the Respondent, if he so desire, to prefer appropriate application for withdrawal of remaining amount, which will be decided on its own merits.

(vi) Civil Application stands disposed of accordingly.

**[K. K. TATED, J.]**