

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

**CIVIL APPLICATION NO.1742 OF 2016
IN
FIRST APPEAL (ST) NO.29918 OF 2015**

Bajaj Alliance General insurance
Company Ltd.

...Applicant.

V/s.

Smt. Mangal Nilesh Patil & Ors.

...Respondents.

Mr. Hrishikesh S. Shinde, i/by Milind M. Sathaye, Advocate for the
Applicant.

**CORAM : K.K.TATED, J.
DATED : AUGUST 30, 2019**

P.C.

1. Heard learned counsel for the Applicant.
2. By this Civil Application, Applicant/Company is seeking stay of the operation and implementation of the Judgment and Award dated 29.04.2015 passed by the Motor Accident Claims Tribunal, at Palghar in Motor Accident Claim Petition No. 134 of 2010 holding that the Respondents/Claimant are entitled to a sum of Rs. 21,94,950/- by way compensation with interest at the rate of 7% p.a.
3. Learned counsel for the Applicant submits that, if entire amount is recovered by the Respondents/claimant in execution Application, then nothing will survive in the present proceeding. He submits that in the interest of justice this Hon'ble Court be pleased to stay the

operation and implementation of impugned Judgment and Award. He further submits that if stay is not granted the applicant will suffer loss.

4. In the present proceeding in the accident which occurred on 18.07.2010, the Applicant/claimant No. 1 lost her husband, claimant No. 2 mother of deceased and Claimant No.1A is the son. On the date of accident he was 37 years old and he was running a company in the name and style in M/s. Micro Electronics and his monthly income was Rs.80,000/-. Considering this fact the Respondents/ Claimant filed Application Under Section 166 of the Motor Vehicles Act, claiming the compensation of Rs.90,00,000/-. Tribunal awarded only Rs.21,94,950/-.

5. Considering the facts that the original Claimant No.1 is the widow and she has to take care of her minor child and also mother-in-law, I am satisfied that Claimant can be permitted to withdraw the same amount during the pendency of the First Appeal.

6. Hence, the following order is passed:-

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 21.09.2019, failing which Civil Application shall stand dismissed without further reference to the 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 29/04/15 passed in Motor Accident Claim Petition No. 134 of 2010 by the Learned District Judge-1 and Member Motor Accident Claim Tribunal, Palghar and disbursal of amount there under, be kindly stayed;”

- b) If amount is deposited within the stipulated time, as stated above, Claimant No.1 Mangal Nilesh Patil, and No.2 Rajani Gangadhar Patil are entitled to withdraw sum of Rs. 4,00,000/- each with accrued interest.
- c) The Tribunal is directed to invest the remaining amount in fixed deposit of any nationalized bank, initially for a one year and same to be continued till further order.
- d) Liberty is granted to the Respondent/Claimant, if they so desire, to prefer an appropriate application for withdrawal of balance amount and that to be decided on its own merits.
- e) Civil Application stands disposed of accordingly.
- f) No order as to costs.

(K.K.TATED, J.)