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

**CIVIL APPLICATION NO. 98 OF 2017
IN
FIRST APPEAL (STAMP) NO. 31540 OF 2016**

New India Assurance Co. Ltd. .. Applicant
Vs.
Smt. Bayanabai Dinkar Gosavi & Ors. .. Respondents

Ms. Jyoti Bajpayee for the Applicant.
Mr. Kedar P. Lad for Respondent Nos.1 to 3.
Ms. Vrushali Maindad for Respondent Nos.4 & 5.

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-Insurance Company is seeking stay of the operation and implementation of the impugned Judgment and Award dated 20.04.2016 passed by the Motor Accident Claim Tribunal, Kolhapur in Motor Accident Claim Petition No. 99 of 2011.
3. Learned Counsel for the Applicant 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 till the hearing and final disposal of the First Appeal. He submits that if the entire amount is withdrawn by the Respondents-Claimants, then nothing will survive in the present First Appeal.
4. Considering the submissions made by learned Counsel for Applicant, averments in Civil Application and as the entire amount is

deposited by the Applicant in Tribunal, I am satisfied that the Applicant has made out case for allowing this Civil Application. Hence, following order :

(i) Civil Application is allowed in terms of prayer Clause (a)

which reads thus:

(a) Pending the hearing and final disposal of the First Appeal, the execution of the impugned Judgment and Award passed by Ld. MACT, at Kolhapur in MACP No. 99 of 2011 dated 20.04.2016 directing Appellant to pay Rs.6,95,000/- jointly and severally to the respondent Nos.1 to 3 with interest 9% p.a. from the date of petition till its realization be stayed on such terms and conditions as this Hon'ble Court may deem fit and proper.

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

(iv) The Civil Application is disposed of accordingly.

(v) No order as to costs.

[K. K. TATED, J.]