

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3171/2015
in
First Appeal No.2259/2011

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. Sachin S. Punde for the applicant.
Mr. H. G. Misar for the respondent

CORAM : K.K.TATED, J.
DATED : JUNE 3, 2019

P.C.

1 Heard. By this civil application, the applicant - claimant is seeking permission to withdraw the amount deposited by the Insurance Company.

2 The learned counsel for the applicant submits that in the present proceedings, in an accident which occurred on 23.02.2004, the applicant No.1 lost her husband. Hence, the applicant has filed the MACP No.564/2004 u/s.166 of the Motor Vehicles Act claiming compensation of Rs.5 lacs. He submits that after considering the evidence on record, the

MACT, Pune vide judgment and award dated 14.06.2011 held that the claimants are entitled to sum of Rs.3,67,000/- by way of compensation with 9% p.a. interest. He submits that being aggrieved by the said award, the Appellant Insurance Company has preferred the first appeal before this court. He submits that the first appeal stood dismissed for non compliance of conditional order dated 18.04.2015. He submits that till today, the said order is not set aside by this court. He submits that in view of these facts, the applicant may be permitted to withdraw the amount deposited by the insurance company towards fulfilment of the judgment and award dated 14.06.2011 passed by the MACT.

3 The learned counsel for the insurance company submits that he does not have papers of the present proceedings.

4 Considering the submissions made by the learned counsel for the applicant and as the first appeal itself has been dismissed for non prosecution, I am of the opinion that the applicant has made out a

case for allowing the civil application.

5 Hence, the following order is passed:

a. The applicant is permitted to withdraw the amount deposited by the Insurance Company in the Tribunal / this court, towards satisfaction of their claim, without furnishing any security, as per their share.

b. Civil Application stands disposed of accordingly.

c. No order as to costs.

(K.K.TATED, J.)