

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

**CIVIL APPLICATION NO.329 OF 2019
IN
FIRST APPEAL NO.99 OF 2019**

Sukhadev Torappa Khandekar .. Applicant/Appellant
Vs.
Sanjivani Sukhadev Kalel & Ors. .. Respondents

Mr.Nagesh Chavan i/by Mr.Rahul B. Khot for the applicant.
Mr.R.V. Bansode for the respondent nos.1 to 3.

**CORAM : R.D.DHANUKA, J.
DATE : 11th December 2019**

P.C.:

. Papers are allowed to be produced at 3.00 p.m.

2. By this application, the applicant seeks stay of the operation and implementation of the impugned judgment and award dated 1st September 2018 passed by the MACAT, Vaduj in MACP No.23 of 2013.

3. By a separate order passed by this Court, first appeal filed by the appellant has already been admitted. Admittedly, the applicant did not avail any insurance policy and has not examined any witness to prove that the deceased was responsible for the accident.

4. In my view, the interest of justice would be met with if the applicant deposits the entire amount awarded with the MACT, Vaduj in

MACP No.23 of 2013 within six weeks from today. It is made clear that no further extension of time would be granted. There shall be interim relief in terms of prayer clause (a) on the aforesaid condition. The applicant shall inform the respondent nos.1 to 3 about such deposit within one week from the date of such deposit.

5. The respondent nos.1 to 3 would be at liberty to withdraw 75% of the amount deposited by the applicant with concerned MACT, at this stage, upon furnishing an undertaking before concerned MACT within four weeks from the date of communication of the order of deposit to the effect that if they do not succeed in this first appeal, they would return the amount that would be withdrawn with interest at such rate as this Court may direct by subsequent order. Copy of the undertaking shall be served upon the learned advocate appearing for the applicant within one week from the date of filing such undertaking. Amount would be withdrawn only after filing such undertaking.

6. It is made clear that if the undertaking is not furnished within four weeks from the date of communication of the order of deposit, the order passed by this Court allowing the respondent nos.1 to 3 to withdraw 50% of the amount deposited by the applicant to stand vacated without further reference to the Court. In that event, the concerned MACT shall invest the said amount in a fixed deposit of a

nationalized bank initially for a period of one year and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

7. The concerned MACT is directed to invest the balance 50% of the amount in a fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period after obtaining further orders from this Court depending upon the pendency of the first appeal.

8. Civil application is disposed of on aforesaid terms. Parties as well as the concerned MACT to act on the authenticated copy of this order.

R.D.DHANUKA, J.