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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO. 1385 OF 2019****IN****FIRST APPEAL (ST) NO. 37353 OF 2018**

National Insurance Co. Ltd.

.....Applicant

V/s.

Shri. Chandrakant Patilbua Sarode
(Since deceased through LR's)

.....Respondent

Mr. Amol Gatne for the applicant

CORAM : K. K. TATED, J.**DATE : APRIL 11, 2019.****P.C.**

Not on board. At the request of the learned counsel for the applicant, matter is taken on production board.

2 Heard the learned counsel for the applicant.

3 By this Civil Application, applicant is seeking stay of operation

and implementation of Judgment and Award dated 21/02/2018 passed by Motor Accident Claims Tribunal at Pune in M.A.C.P. No. 697 of 2015 holding that respondents are entitled to compensation of Rs. 4,52,651/- with 7.5% interest per annum from the date of application till realization of entire amount.

4 The learned counsel for the applicant submits that they are ready and willing to deposit entire awarded amount in the Tribunal on or before 04/05/2019. Statement is accepted.

5 It is to be noted that in the present proceedings, in an accident occurred on 06/02/2012 Chandrakant Patilbua Sarode sustained injuries. Thereafter, he died in 2015. Because of accident respondent filed an application under the provisions of Motor Vehicles Act for compensation. The Trial Court after considering evidence on record held that respondents are entitled to sum of Rs. 4,52,651/- by way of compensation with 7.5% interest per annum. It is to be noted that there is delay on the part of the applicant to file present First Appeal.

6 Considering the submissions made by the learned counsel for the applicant and averments made in Civil Application, I am satisfied that applicant has made out a case for allowing the Civil Application. But at the same time, respondents are entitled to withdraw some amount during the pendency of the First Appeal. Hence, following order:

(I) Judgment and Award dated 21/02/2018 passed by Motor Accident Claims Tribunal at Pune in M.A.C.P. No. 697 of 2015 is stayed till the hearing and final disposal of the First Appeal on condition that Insurance Company to deposit entire awarded amount in the Tribunal on or before 04/05/2019, failing which Civil Application shall stand dismissed without referring back to the Court.

(II) If amount is deposited within stipulated period as stated herein above, respondent no. 1 Smt. Sanjivani Chandrakant Sarode and respondent no. 2 Smt. Rohini Chandrakant Sarode are entitled

to withdraw 25% each amount of compensation with accrued interest, if any, without furnishing any security, but subject to outcome of the First Appeal.

(III) Tribunal is directed to invest the remaining amount in the fixed deposit of any nationalized bank, initially for the period of one year and same to be continued till further orders.

(IV) Liberty to respondents, if they so desire, to prefer appropriate application for further withdrawal and that application may be decided on its own merits.

(V) Civil Application stands disposed of.

[K. K. TATED, J.]