

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CIVIL APPLICATION [F] NO. 2800/2019
IN FIRST APPEAL ST. NO. 8956/2019.

The Oriental Insurance Co. Ltd.

-VERSUS-

Smt. Poonam Jitendra Mankar and others.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri L. Limaye, Advocate for Applicant.

Shri R.M. Tahilayani, Advocate for Non-applicant Nos.1& 2.

CORAM : VINAY JOSHI, J.

DATE : 06.11.2019.

Heard.

2. By this application, the applicant – Insurance Company is seeking condonation of delay of 168 days in filing appeal, challenging the judgment and award dated 19.07.2018, passed in M.A.C.P. No.57/2014. Certain office exigencies have been canvassed so as to make out a sufficient cause for condonation of delay. The Claims Tribunal has granted compensation of Rs.50,81,333/- on account of a death claim.

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3. It is the contention of the applicant that they have certain factual and legal defences to contest the claim on merits. Hence, considering the reasons canvassed, I feel it appropriate to condone the delay. Hence, delay is condoned. Civil Application is accordingly allowed and disposed of. Office to register the First Appeal.

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First Appeal No. _____/2019.

Heard.

Admit. Learned Counsel for respondent nos. 1 and 2 waives notice on merit.

R & P be called. Appeal be listed for final hearing after receipt of R & P.

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Civil Application (F) No.2004/2019.

Heard.

2. This is an application moved by respondent nos. 1 and 2 seeking permission to withdraw the amount of compensation deposited by the appellant Insurance Company. The claims Tribunal has awarded total amount of compensation to the tune of Rs.50,81,333/- along with interest @ 9%

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to the claimants, who are widow and son of the deceased. The Tribunal has also apportioned the amount some what vertical equally to widow and son. So far as the minor son is concerned, the Tribunal has directed to release an amount of Rs.5 lakhs and to invest the remaining amount in fixed deposit in the name of minor in any nationalized Bank.

3. Certainly, interest of minor is required to be protected. It reveals that the appellant Insurance company has mainly challenged the quantum of compensation by contending that it is excessive and exorbitant. Perusal of judgment shows that the deceased had salaried income, meaning thereby his income is supported by documentary evidence. Having regard to the said fact, following order is passed.

(a) Civil Application is partly allowed and disposed of.

(b) Applicant no.1/respondent no.1 is entitled to entire amount of her share, with accrued interest. Applicant no.2/respondent no.2 is entitled to only Rs.5 lakhs, with accrued interest on the condition that the applicant no.1/respondent no.1 shall furnish usual

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undertaking before the Registrar (Judicial) of this Court within a period of four weeks from today.

JUDGE

Rgd.