

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**NAGPUR BENCH : NAGPUR**

**CIVIL APPLICATION (CAF) NO. 1981 OF 2019**  
**IN**  
**FIRST APPEAL ST. NO. 9735 OF 2019**

The New India Assurance Co. Ltd., thr.its Branch manager ..vs..Smt. Bharti Kishor Lonkar and ors.

Office Notes, Office Memoranda of Coram,  
appearances, Court's orders of directions  
and Registrar's orders

Court's or Judge's orders

Shri A.W. Paunikar, Advocate for appellant.  
Shri A.R. Rishi, Advocate for respondent nos. 1 to 4.

**CORAM : VINAY JOSHI, J.**  
**DATED : 13<sup>th</sup> DECEMBER, 2019**

Heard.

2. By this application, applicant is seeking for condonation of delay of 107 days caused in filing the appeal. The claimants have objected for condonation of delay.

3. Considering the reasons stated in the application, delay stand condoned. Civil Application is accordingly disposed of. Appeal be registered.

**FIRST APPEAL ST. NO. 9735 OF 2019**

Heard.

2. **Admit.**

3. Shri A.R. Rishi learned Counsel waives notice for respondent nos. 1 to 4.

**CIVIL APPLICATION NO. 1982 OF 2019**

Heard.

2. By this application, appellant is seeking stay to the execution of the judgment and award dated 26.09.2018 passed in M.A.C.P. No. 65 of 2017.
3. Since the entire decretal amount is deposited, the earlier order of stay shall continued till the disposal of appeal.
4. Civil Application is allowed and disposed accordingly.

**CIVIL APPLICATION NO. 2285 OF 2019**

Heard.

2. By this application, respondents are seeking permission for withdrawal of compensation amount. The appellant has objected to release entire amount by stating that the Tribunal erred in calculating the comepnasation as it was a claim under Section 166 of the Motor Vehicles Act.
3. It is pointed out that the Tribunal awarded future prospect as well as there was excess addition on conventional heads. According to him, the Tribunal ought to have followed structural formula and therefore, application is opposed.

4. On assessment of evidence, the Tribunal has awarded total compensation of Rs.6,07,600/- alongwith interest. Considering the grounds of objection, purpose would suffice if, claimant is permitted to withdraw 75% of the amount on certain condition.
5. In view of that, applicants/respondent nos. 1 to 4 are permitted to withdraw 50% amount on usual undertaking and 25% amount on furnishing solvent surety to the satisfaction of the Registrar(Judicial).
6. Civil Application is accordingly allowed and disposed of.

**JUDGE**

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