

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

FIRST APPEAL NO. 1962 OF 2019

Regional Manager, National Insurance Co. Ltd.

..vs..

Kunda wd/o Mahadeorao Kathane and ors.

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

Court's or Judge's orders

Ms. Anita Mategaonkar, Advocate for the appellant.

CORAM : VINAY JOSHI, J.

DATED : 17th DECEMBER, 2019

Heard.

2. **Admit.**

CIVIL APPLICATION (CAF) NO. 4472 OF 2019

Heard.

2. The appellant is seeking stay to the execution of impugned judgment and award. It is argued that, it is a case of contributory negligence, since the deceased-motor cycle rider abruptly stopped on the road which resulted into dash by Truck coming from behind. Secondly, it is argued that the salary certificate tendered by the claimants is for the month of April and May and therefore, income tax was not shown, resulting into grant of excess compensation.

3. Whether it is the case of contributory negligence

or sole-negligence of Truck driver is a matter of fact to be decided at the time of final hearing. The Tribunal has awarded compensation of Rs.30,18,506/- alongwith interest. Since, it is a money decree, appellant has to deposit entire amount. At the time of disposal of appeal, the submission can be considered. Learned Counsel for the appellant submits that the entire compensation amount will be deposited within six weeks.

4. In view of that execution of impugned judgment and decree is stayed for the period of six weeks from today. If, the appellant deposits entire amount within said period, then the stay will remain in force till the final disposal of appeal.
5. Civil Application is disposed of accordingly.

JUDGE

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