

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

Civil Application No.170 of 2019
in
First Appeal St.No.26097 of 2018
(The Manager, The National Insurance Company Ltd. Chandrapur .vs. Smt.
Nirmala @ Nita Sajjan Kukudkar and ors.)

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. A.M. Kukday, Advocate for Applicant.

CORAM : Manish Pitale, J.
DATED : September 26, 2019.

This is an application seeking condonation of delay in filing the accompanying first appeal to challenge the judgment and order passed by the Motor Accident Claims Tribunal, Gadchiroli. Notice was issued in this application and all the respondents have been served, some of whom are represented by counsel.

2. For the reasons stated in the application, the same is allowed and the delay is condoned.

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Heard learned counsel for the appellant.

2. The main ground raised on behalf of the appellant/Insurance Company is that the Tribunal has erred in calculating the future prospects at 30% and that it is not in terms with the latest position of law. It is further submitted that there was scant evidence on record for the Tribunal to conclude that the capacity to work of the respondent no.1 (claimant) was completely

affected by the injuries suffered in the accident. Thus, the appellant is seeking scaling down of quantum of compensation granted by the Tribunal in the light of the aforesaid submission.

3. Issue notice for final disposal, returnable in six weeks.

4. Mr. R.M. Tahaliyani, Advocate waives notice for respondent no.1, Mr. V.N. Morande, Advocate waives notice for respondent no.3 and Mr. A.T. Purohit, Advocate, waives notice for respondent no.7. Since respondent no.6 is already represented by counsel Mr. D.N. Kukdey, this Court notes the fact that the notice is waived on behalf of the respondent no.6 also.

5. Call for R. & P.

Civil Application No. 1311 of 2019.

The respondent no.1 has filed this application seeking permission to withdraw the amount of compensation deposited by the appellant in this Court. It is stated that an amount of Rs. 16,66,930/- was deposited by the appellant in this Court in pursuance of the directions given earlier.

2. In this application, it is contended on behalf of respondent no.1 that she has no source of income in view of the fact that her capacity to work has been adversely affected by the injuries caused by the accident and that she and her family is suffering from financial adversity.

3. Considering the contents of this application and the main grounds of challenge raised in the appeal noted above, this Court is of the opinion that it would be

in the interest of justice that the respondent no.1 is permitted to withdraw the amount of Rs.12,00,000/- from the amount deposited by the appellant in this Court, on furnishing usual undertaking before the learned Registrar (Judicial) within four weeks from today.

4. Accordingly, the application is partly allowed and it is further directed that the balance amount shall be invested in a fixed deposit with the Nationalized Bank, during the pendency of this appeal.

JUDGE

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