

Uday S. Jagtap

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1020 OF 2021
IN
FIRST APPEAL NO. 166 OF 2020**

Magma HDI General Insurance Co. Ltd. .. Applicant

Vs.

Shaila Sunil Panhale & Ors. .. Respondents

.....

Mr. Tushar Bendale for the applicant
None for the respondent

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 9th APRIL, 2021
(Through Video Conferencing)

P.C.

1. Advocate Tushar Bendale, appearing for the applicant – insurer prays for stay to the execution and implementation of the judgment and award passed by the Member, M.A.C.T., Thane in M.A.C.P. No. 539 of 2016 on 3rd February, 2020 thereby awarding compensation to the legal heirs of the deceased namely; his mother and elder brother.

2. It is submitted that the appellant has a good case on merits. However, execution case No. 77 of 2021 has been taken out by the respondent and if the execution is allowed to be proceeded further, the appeal would become infructuous.

3. Mr. Bendale, on instructions, undertakes to deposit the entire

amount of compensation with up-to-date interest in the Tribunal within six weeks from the date of passing of the order. Statement is accepted.

4. In view of the said statement, there shall be ad-interim relief in terms of prayer clause (b) of the application, which read thus :-

“(b) Pending hearing and final disposal of the first appeal the execution, implementation and operation of Order and award dated 03.02.2020 passed by the Chairman Motor Accident Claims Tribunal, Thane in MACP No. 539 of 2016 may kindly be stayed.”

5. If the applicant fails to deposit the entire amount within six weeks, ad-interim relief shall stand vacated without further reference to the Court.

6. After depositing the amount, the applicant shall inform the respondents-claimants about the factum of deposit within two weeks.

7. The respondents are at liberty to withdraw 50% of the amount that would be deposited by the applicant before the concerned M.A.C.T upon furnishing an undertaking within two weeks that if the appellant succeeds in the appeal, the respondents shall refund the amount with interest at such rate as would be directed by this Court depending upon the outcome of the first appeal.

8. If respondents do not file an undertaking within the

aforesaid period, the amount that would be deposited by the applicant shall be invested by the M.A.C.T in a fixed deposit in any Nationalized Bank for a period of one year and thereafter for one more year again after obtaining order from this Court.

9. If 50% amount is withdrawn by the respondents, balance amount shall be invested by the M.A.C.T in a fixed deposit as stated above, in a Nationalized Bank.

10. The application stands disposed of.

(PRITHVIRAJ K. CHAVAN, J.)