

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

**INTERIM APPLICATION NO.3109 OF 2020
IN
FIRST APPEAL NO.2147 OF 2006**

Late Avinash Sumant Saraf
Since deceased through
LRs Applicant No.2
THR. POA Niranjan S. Joshi
& Anr.

... Applicants

Vs

Pune Municipal Transport

... Respondents

...

Mr. Gupte Deepak Manohar for the Applicant.

CORAM : SANDEEP K. SHINDE J.
DATE : APRIL 28, 2021.
(Through Video-Conferencing)

P.C. :

Heard Mr. Gupte, learned counsel for the applicants/original respondent no.2 in First Appeal No.2147 of 2006. He submits, respondents were served with the proceedings. Statement is accepted.

2 The Pune Municipal Transport had preferred the

subject First Appeal against the judgment and award dated 18th February, 2006 in M.A.C.P. No. 526 of 2002 drawn by the Additional Member, Motor Accident Claims Tribunal, Pune. This Court vide order dated 25th September, 2006 stayed the execution of the award subject to appellant depositing the decretal amount in the Trial Court. It appears that appellant had deposited the decretal amount and part of it was withdrawn by the original claimants. It further appears, balance amount of compensation has been invested in fixed deposit with the Bank of Maharashtra, University Main Branch, Pune. Particulars of deposits are at Page No.12 of the application.

3 On 19th November, 2010, following order was passed:

"1 Printing is dispensed with. Private paper book to be filed within a period of one year from today failing which the appeal will stand dismissed for non-prosecution without further reference to the Court."

4 Office notings show that appellant did not file paper-book and as such, the First Appeal was dismissed and sent to Decree Department.

5 It appears, the appellant/Pune Municipal Transport has not made any efforts till date to restore the appeal.

6 Pending appeal, respondent no.1-Mr. Avinash Sumant Saraf passed away on 1st February, 2019. Original respondent no.2 is wife of deceased Avinash Saraf.

7 By instant application, the applicant Usha Avinash Saraf seeks direction to the Member, MACT, Pune to take appropriate steps to pay the amount of compensation invested in fixed deposit account of the Bank of Maharashtra unconditionally and preferably within four weeks from today.

8 Thus, in view of conditional order, dated 19th November, 2010, appeal stood dismissed. In consideration of this fact, the Civil Application is allowed. The Motor Accident Claims Tribunal, Pune shall pay the balance amount of compensation lying in fixed deposit account with the Bank of Maharashtra with interest accrued thereon to Usha Avinash Saraf, unconditionally and preferably within four weeks from today.

9 Applicant to file formal application before the MACT, Pune along with the copy of this order whereafter the MACT shall take steps to release the amount accumulated in the subject fixed deposit account.

10 The Application is allowed and disposed of in the aforesaid terms.

(SANDEEP K. SHINDE, J.)