

Santosh

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

**CIVIL APPLICATION NO. 2791 OF 2017  
IN  
FIRST APPEAL NO. 661 OF 2013**

Kavita Pundlik Umbergonde & ors. ...Applicants

**In the matter between**

Maharashtra State Road Transport ...Appellant  
Corporation Ltd.

**Versus**

Kavita Pundlik Umbergonde & ors. ...Respondents

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Ms. Rina Kundu, for the Applicants/for the Respondents in  
FA.

Mr. Yashodeep Deshmukh, a/w Vaidehi Deshmukh, Sonali  
Pawar, Kinjal Kanani, for the Respondent in IA/for the  
Appellant in FA.

**CORAM: N. J. JAMADAR, J.**

**DATED : 25<sup>th</sup> OCTOBER, 2021**

**PC:-**

1. Heard Ms. Kundu, the learned Counsel for the applicants  
and Mr. Deshmukh, the learned Counsel for respondent no.1 –  
appellant.

2. This is an application for withdrawal of an amount of  
Rs.4,88,847/- deposited by the appellant in terms of the Award  
in MACP No.407/2009, dated 18<sup>th</sup> January, 2013, passed by the  
learned Member, MACT, Thane.

3. The learned Counsel for the applicants has pointed out  
that the appellant has not deposited the entire amount of

compensation, subject to which ad-interim stay was granted by an order dated 12<sup>th</sup> July, 2017.

4. The learned Counsel for the appellant attempted to wriggle out of the situation by inviting the attention of the Court to the impugned Award, wherein the learned Member has found that the appellant and respondent no.5 were liable to pay compensation to the tune of Rs.8,40,000/- to the applicants on account of composite negligence on the part of the drivers of both the vehicles, in the ratio 50:50.

5. The aforesaid apportionment is of no assistance to the appellant as in clause (3) of the operative order the Tribunal clarified that the applicants are at liberty to recover amount from any of the opponents. Since, it was the case of composite negligence, the applicants are in law entitled to recover the amount of compensation from any of the joint tortfeasers. Thus, the said apportionment of blame in the impugned order is of no significance.

6. There are averments in the application which justify the prayer for withdrawal.

7. Hence, the following order:

**: O r d e r :**

- (i) The application stands allowed in terms of prayer Clause (a).

- (ii) The applicants are entitled to withdraw the entire amount of compensation alongwith the interest accrued thereon, deposited by the appellant, subject to furnishing an undertaking before the Tribunal that, in the event the appeal is allowed they will bring back the amount alongwith interest at such rate as may be decided by the Court.
- (iii) The application stands disposed of.

**[N. J. JAMADAR, J.]**