

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

**INTERIM APPLICATION NO. 1014 OF 2021
IN
FIRST APPEAL (ST) NO. 25545 OF 2018**

Baban Joma Patil ...Applicant
vs.
Bajaj Allianz General Insurance Co.Ltd. & Anr. ...Respondents

**WITH
CIVIL APPLICATION NO. 3541 OF 2018
IN
FIRST APPEAL (ST) NO. 25545 OF 2018**

Bajaj Allianz General Insurance Co.Ltd. ...Applicant
vs.
Baban Joma Patil & Anr. ...Respondents

Mr.Sameer Mangaonkar for Applicant.
Ms.Yogita Deshmukh Chitnis for Respondents.

CORAM : BHARATI DANGRE, J.

DATED : 6 OCTOBER 2021

P.C. :

INTERIM APPLICATION NO. 1014 OF 2021

1. The present application is taken out by the claimant/Applicant seeking withdrawal of the amount of compensation deposited by the Appellant in the MACT Court, Raigad in furtherance of the order passed by this court. The total amount deposited is Rs.5,43,585/-. The Application is made on the ground that he is 60 year old and though the compensation was awarded by the judgment and order dated 12 November 2018, he has not received a single penny, though he lost his daughter in the accident,

which took place on 7 February 2010. The precarious financial condition and the old age of the Applicant has been cited as a reason for withdrawal of the amount.

On perusal of the application, the dire need of money, as expressed by the Applicant in the application, cannot be disbelieved and looking to the old age of the Applicant, it is apparent that he need money to meet his medical expenses. In any case, the Applicant has lost his daughter and he has been duly compensated by the Tribunal. I see no hesitant in permitting the Applicant to withdraw 50% of the amount which has been deposited. However, it is made clear that in terms of the order passed by MACT, out the amount of the compensation to be deposited, Rupees One Lakh is directed to be invested in the Fixed Deposit for a period of two years in the name of the Applicant in Nationalised Bank. On deposit, the Tribunal would follow the said pursuit of investing the amount of Rupees One Lakh. Out of the remaining amount, the Applicant is permitted to withdraw 50% of the amount subject to he submitting an undertaking before the MACT to the effect that in case of the appeal being decided against his interest, he shall deposit the amount withdrawn in the Tribunal.

2. With the aforesaid directions, Interim Application No.1014/2021 is allowed.

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3. Notice was issued. On the Respondent being noticed, he was also heard in the application along with the Counsel for the Applicant. There is a delay of 137 days in filing the first appeal. The said delay is explained in paragraphs 4 and 5 of the application and it is stated that the

delay, which has occasioned, is not intentional, but some time was consumed in tracing the file, as the advocate representing the Appellants was in the process of shifting his office and therefore, the file was misplaced. The explanation offered in para 6 appear to be *bona fide*. I am of the opinion that the delay of 137 days in filing the first appeal deserve to be condoned.

4. Civil Application No.3541/2018 is made absolute in terms of prayer clause 8(a).

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5. **Admit.** Learned Counsel waive notice for Respondents.

(SMT. BHARATI DANGRE, J.)