

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.187 OF 2023
WITH
INTERIM APPLICATION NO.1922 OF 2023

Magma Hdi General Insurance
Co. Ltd., Mumbai ...Appellant

V/s.

Smt. Sandhya mahendra
Gaikwad and anr. ...Respondents

WITH
INTERIM APPLICATION NO.14659 OF 2023
IN
FIRST APPEAL NO.187 OF 2023

Smt. Sandhya mahendra
Gaikwad and anr. ...Appellant

V/s.

Magma Hdi General Insurance
Co. Ltd., Mumbai ...Respondents

Mr. D. S. Joshi for the Appellant in IA No.187 of 2023 and for the
Applicant in IA/1922/2023.
Ms. Varsha Chavan for the Respondent Nos. in FA/187/2023

CORAM : RAJESH S. PATIL, J.

DATED : 14th SEPTEMBER, 2023

P.C.:

INTERIM APPLICATION NO.1922 OF 2023

1. The learned counsel for the Applicant Appellant states
they have deposited the entire awarded amount, but belated.

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Therefore, they have not complied to the directions given in the order dated 28th February, 2023.

2. Since the amount is already deposited, ad-interim relief granted on 28th February, 2023 is hereby confirmed till the disposal of the First. Appeal.

3. The Interim Application NO.1922 of 2023 is accordingly disposed of.

INTERIM APPLICATION NO.14659 OF 2023

1. The Applicant is filed Interim Application is the matter of the deceased. The learned counsel for the Applicant is stated that the deceased studying in Father Agnel college at Vashi, he had finished his MS-CIT and was very good in sports. He further states that deceased had extreme bright future, he was hard working and academically inclined. Therefore, she further states that he has not received any compensation apart from compensation under Section 140 of the MV. Act. She further states that the accident occurred on 20th March, 2017 and 6 years passed she has not received any compensation.

2. The Advocate for the Respondents has not filed any reply, opposing the Interim Application.

3. I have heard both the sides and also I have gone through the Interim Application. According to me, in the interest of justice, it would be appropriate if the Applicants are permitted to withdraw Rs.15,00,000/- of the decretal amount deposited by the Insurance Company as per the ratio mentioned in the impugned judgment and Award dated 23rd August, 2022.

4. The Registry should verify and see to it that the amount is directly transferred in the sole account of the claimant.
5. The Rs.15,00,000/- of the decretal amount awarded to the Applicant (Original Claimant) is allowed to be withdrawn, upon furnishing an undertaking before the concerned MACT to the effect that if they fail in this First Appeal, they will return the amount with interest, at such rate as may be directed by this Court at the time of disposal of the First Appeal.
6. Balance amount shall be invested in the fixed deposit of a nationalized bank initially for a period of one year and thereafter for like period depending upon the pendency of this Court.
7. All the parties to act on an authenticated copy of this order. Issuance of certified copy of the order is expedited.

(RAJESH S. PATIL, J.)