

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

FIRST APPEAL (ST) NO.1669 OF 2021

Cholamandalam M.S.General Insurance
Co. Ltd. Pune ... Appellant

V/s.

Netaji Dadarao Kashid & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO.14027 OF 2023**

Netaji Dadarao Kashid & Ors. ... Applicant

V/s.

Cholamandalam M.S.General Insurance
Co. Ltd. Pune ... Respondents

**WITH
INTERIM APPLICATION NO.647 OF 2021
WITH
INTERIM APPLICATION NO.648 OF 2021**

Cholamandalam M.S.General Insurance
Co. Ltd. Pune ... Applicant

V/s.

Netaji Dadarao Kashid & Ors. ... Respondents

Ms. Deepika Babhala Advocate for the Appellant / Applicant.
Mr. Shashikant P. Chaudhari a/w Mr. Pranot P. Pawar i/b
Maharashtra Law Associates for Respondents and for Applicant in
IA/14027/2023.

CORAM : RAJESH S. PATIL, J.

DATED : 26 OCTOBER 2023

P.C.:

INTERIM APPLICATION NO.647 OF 2021

1. This Interim Application is filed for condoning the delay of 239 days in filing the First Appeal.
2. The Applicant has stated that apart from the other reasons due to the national lock down they were not able to file the Appeal in time challenging the impugned Award dated 3 October, 2019 by the MACT.
3. Applicant states that the Application for obtaining certified copy was filed on 5 October, 2019 and certified copy of the impugned Award was made available on 2 January, 2020 therefore, the Applicant had time from 31 March, 2020 to 2022 to file the Appeal.
4. However, as per the direction of the Supreme Court in light of Covid-19 lock down, the Appellant / Applicant had time till March 2022 to file the First Appeal. The First Appeal has been filed on 1 January, 2021 therefore, there is no delay in filing this First Appeal. Hence, Interim Application has become infructuous the First Appeal should be treated within time.
5. Interim Application is Accordingly disposed of.

INTERIM APPLICATION NO.648 OF 2021

1. This Interim Application is filed seeking stay to the execution and implementation of the impugned Judgment and Award dated 3 October 2019. By an Order dated 17 June, 2022 this Court had allowed the Appellant / Applicant to deposit the entire 'Award' amount, subject to which a stay to the execution of the impugned Judgment and Award was granted till the next date of hearing.
2. Advocate for the Appellant states that her client has already deposited the entire Award amount along with accrued interest within time. In view of the same, interim stay granted by order dated 17 June, 2022 is extended till the disposal of the First Appeal.

INTERIM APPLICATION NO.14027 OF 2023

1. This Interim Application is filed by the Original claimant for withdrawal of the amount deposited by the Appellant / Insurance Company before the concerned MACT.
2. It is the case of the Applicant that the elder brother of the deceased unfortunately died during the pandemic. The said elder brother's family, including his children are now dependent on the Applicant financially and emotionally also.
3. So also, the father and mother of Applicant No.1 died during the period of the proceedings. The Applicant No.3 is pursuing MBA course. Therefore, the Applicant states that they need monies for their survival.
4. I have heard both the sides and I have gone through the

contents of the Interim Application. According to me, case is made out for withdrawal of partial amount. Applicant Nos.1 and 2 are permitted to withdraw 60% of the 'Award' amount deposited by the Insurance Company along with accrued interest as per the ratio mentioned in the impugned Judgment and Award 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.

5. 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 the pendency of this Court.

6. All the parties to act on an authenticated copy of this order. Issuance of certified copy of this order is expedited.

7. Interim Application is accordingly disposed of.

(RAJESH S. PATIL, J.)