

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2071 OF 2017

IN

FIRST APPEAL NO.1480 OF 2019

WITH

FIRST APPEAL NO.1480 OF 2019

UNITED INDIA INSURANCE CO. LTD.)...APPLICANT

V/s.

**SMT. SALMA KHATOON WASHI AHEMAD)
KHAN AND OTHERS)...RESPONDENTS**

WITH

INTERIM APPLICATION NO.14275 OF 2023

IN

FIRST APPEAL NO.1480 OF 2019

Ms.Varsha Chavan, Advocate for the Applicant/Appellant.

Mr.Husain A. Hasim, Advocate for the Respondents 1 to 5 and for the Applicant in IA/14275/2023.

CORAM : ABHAY AHUJA, J.

DATE : 11th AUGUST 2023

PC. :

1. This is an application seeking stay to the execution of the impugned judgment and award dated 9th September 2016 passed by Motor Accident Claims Tribunal, Mumbai, in Motor Accident Claim Petition no.2466 of 2010.

2. Learned Counsel for the Applicant would point out that the entire decretal amount has already been deposited and stay was granted earlier, which was also extended. Mr.Hasim, learned Counsel for the Respondents, confirms that the entire decretal amount has been deposited.

3. Having heard the learned Counsel and having perused the application and the record, let the stay granted earlier be continued till the final disposal of the Appeal.

4. The application, accordingly, stands disposed.

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5. Not on board. Taken on board.

6. This is an application seeking withdrawal of 50% of the amount deposited in the Court on the grounds mentioned therein. However, Ms.Varsha Chavan, learned Counsel for the Insurance Company, opposes the request stating that already some amount has been withdrawn by the claimants from the Employees State Insurance Corporation (ESIC) and under Section 53 of the said Employees State Insurance Corporation Act, there is a bar against receiving or

recovering compensation or damages under any other law, and therefore, no amount can be allowed to be withdrawn. Learned Counsel would submit that let the First Appeal be heard instead. Learned Counsel for the Applicants submits that some time be granted to file reply.

7. Let reply be filed within a period of two weeks. Rejoinder, if any, within a period of one week thereafter. List on **7th September 2023**.

(ABHAY AHUJA, J.)