

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.15262 OF 2023
IN
FIRST APPEAL (ST) NO. 11211 OF 2023

Swati Dhanaji Lavate And Ors. ...Applicants
V/s.
Maharashtra State Road
Transport Corporation ...Respondent

WITH
INTERIM APPLICATION NO.3902 OF 2023

Maharashtra State Road
Transport Corporation ...Applicant
V/s.
Swati Dhanaji Lavate And Ors. ...Respondents

WITH
INTERIM APPLICATION NO.3903 OF 2023

Maharashtra State Road
Transport Corporation ...Applicant
V/s.
Swati Dhanaji Lavate And Ors. ...Respondents

Ms. Gargi Warunjikar i/b. Bhutekar for the Appellant.

Mr. Rushikesh Kale for the Applicants in FAST/11211/2023.

CORAM : RAJESH S. PATIL, J.

DATED : 12th SEPTEMBER, 2023

P.C.:

INTERIM APPLICATION NO.3902 OF 2023

1. This Application is filed for condoning the delay in

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Diliprao
Nawale

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filing the First Appeal.

2. There is a delay of 65 days in filing the First Appeal. The counsel for respondents state that he has no objection in condoning the delay and the matter is taken up hearing immediately.

3. I have gone through the contents of the application and I am satisfied that the appellant has made out a case to condone the delay. Hence, Application is allowed in terms of prayer clause (a).

4. The Interim Application stands disposed of.

INTERIM APPLICATION NO.3903 OF 2023

1. This Interim Application is filed for seeking there in stay to the execution and implementation of judgment and order dated 4th November, 2022 passed by the MACT, Solapur in MACP No.72 of 2020.

2. By an order dated 19th April, 2023 interim relief was granted to the Applicant. Pursuant to which the Appellant has deposited entire decretal amount in MACT Solapur with interest.

3. In view of the same, interim relief granted on 19th April, 2023 is extended till the disposal of the First Appeal.

4. Interim application is accordingly disposed of.

INTERIM APPLICATION NO.15262 OF 2023

1. This Interim Application is filed by the original claimant for withdrawal of the amount deposited by the Applicant herein, before the MACT, Solapur.

2. Heard both the sides, no reply is filed by the Insurance Company opposing this Application.

3. It is stated in the Interim Application that after the death of husband of the Applicant No.1, who has died in the unfortunate accident, the Applicant No.1 has to take care of her two minor children and her in-laws. The Applicants have no regular income to survive, the family has a barren agriculture land but there is no sufficient income for the livelihood. The Applicant No.1 widow of the deceased has to also bear the expenses of the education of Applicant Nos. 2 and 3, who are studying in school and the expenses of the education is quite high. The Applicant has no source of income, therefore, the present Application has been filed.

4. I have heard both the sides and also I have gone through the contents of the Interim Application. According to me, in the interest of justice, it would be appropriate if the Applicant Nos. 1 and 4 are permitted to withdraw 60% of the decretal amount deposited by the Insurance Company as per the ratio mentioned in the impugned judgment and order dated 4th November, 2022.

6. The Registry should verify and see to it that the amount is directly transferred in the sole account of the claimant.

7. The 60% of the decretal amount awarded to the Applicant Nos. 1 and 4 is allowed to be withdrawn, upon furnishing an undertaking before the 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.

8. 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.

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

6. The interim application is accordingly disposed of.

FIRST APPEAL (ST) NO. 11211 OF 2023

1. The learned counsel for the parties state that a short issue is involved in this matter, and the matter can be disposed at the admission stage itself. The parties agree to file a compilation of document, short synopsis along with their proposition of law and authorities relied upon by them within four weeks from today.

2. The matter to come up for final hearing on 16th October, 2023 at 2.30 p.m.

(RAJESH S. PATIL, J.)