

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 1306/2023 IN
FIRST APPEAL NO. 555/2021

Hdfc General Insurance Co. Ltd., Divisional Manager, Nagpur
Vs
Malti Wd/O Yashwant Bhisekar And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr A.M. Kukday, advocate for the appellant/applicant.

Mr Deepak Khushalani, advocate for the respondent Nos. 1 to 4.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 02/05/2023.

1. Heard.
2. The present application is for modification of the order passed on 13/04/2022. As the appeal was dismissed for want of prosecution, this Court, has permitted to the respondent Nos. 1 to 4 to withdraw the entire amount. Now, this application is filed for modification of order on the ground that huge amount is involved and the appellant has challenged the quantum of the compensation, if the appellant succeeds in the appeal then it will be difficult to recover of the amount from the respondent Nos. 1 to 4.
3. The said application is strongly opposed by the learned advocate Mr Deepak Khushalani for the respondent Nos. 1 to 4 on the ground that this Court has permitted the appellant to withdraw the amount. Considering the appeal

was dismissed, the appellant was not diligent in pursuing the appeal and therefore, the application deserves to be rejected.

4. Heard both sides. Perused the application and the earlier order passed by this Court.

5. Considering the issue involved in this appeal and huge amount is involved regarding the compensation, at this stage it will be appropriate to permit the respondent Nos. 1 to 4 to withdraw the 75% amount on usual undertaking as the appeal is already restored.

6. In view of that respondent Nos. 1 to 4 are permitted to withdraw the 75% amount of compensation along with accrued interest on usual undertaking on due identification and verification.

Civil application is disposed of.

First Appeal No. 555/2021

1. Call for record and proceedings.
2. First Appeal can be disposed at the admission stage itself.
3. The appellant to file relevant documents on record.
4. Filing of private paper-book is dispensed with.
5. Place the matter for final disposal after receipt of record and proceedings.

Civil Application (CAF) No. 4157/2019

1. The present application is for seeking stay to the effect, operation, implementation and execution of the impugned judgment and award passed the learned Member, Motor Accident Claims Tribunal, Achalpur in MACP No. 42/2011.

2. The amount of compensation has already been deposited and the respondent Nos. 1 to 4 are already permitted to withdraw 75% of the amount.

3. In view of that, the effect, operation and implementation of the impugned judgment and award dated 15/01/2019 passed by the learned Member, Motor Accident Claims Tribunal, Achalpur in MACP No. 42/2011 be stayed till final disposal of the appeal.

Civil application is **disposed of**.

JUDGE