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6-CA-11802-2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

6 CIVIL APPLICATION NO. 11802 OF 2024  
IN FA/1036/2024

Smt Jyotibai Tilakchand Rathod And Ors

VERSUS

Shri Shivaji Kashinath Amte And Ors

WITH

FIRST APPEAL NO. 1036 OF 2024

WITH

CIVIL APPLICATION NO. 3620 OF 2024  
IN FA/1036/2024

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Mr. Ajay T. Kanawade, Advocate for Applicant.

Mr. S. R. Bodade h/f Mr. S. M. Pandit for Respondent No.1.

Ms. Anagha V. Rotte for Respondent No.3.

CORAM : KISHORE C. SANT, J.

DATE : 12<sup>th</sup> DECEMBER 2024

PC :-

FIRST APPEAL

1. Heard.
2. Admit.
3. Call for record and proceedings.
4. Learned Advocate Mr.Pandit waives notice for Respondent No.1 on

admission.

5. Learned Advocate Ms. Rotte waives notice for Respondent No.3 on admission.

#### **CIVIL APPLICATION FOR STAY**

1. Since the entire amount is deposited in the office of this Court, there shall be stay to the impugned judgment and award passed by the Reference Court i.e. Learned Member, MACT, Aurangabad in MACP No. 532 of 2018, till final disposal of the appeal.

2. The application stands disposed off.

#### **CIVIL APPLICATION FOR WITHDRAWAL**

1. Heard the learned Counsel for the parties.

2. Learned Advocate Ms. Rotte, appearing for respondent vehemently opposes the application. She submits that the involvement of the vehicle itself is doubtful. The number plate of the vehicle is also chanced. The offence is also registered against Respondent No.6 i.e. driver of the vehicle. Thirdly, she submits that income of the deceased is taken on higher side i.e. Rs. 10,000/- per month. The deceased was working as mason and thus, income appears to be on higher side. Fourthly, the

Tribunal has committed mistake in calculating the amount of compensation. The deduction are not properly considered while making the calculation. However, considering that the claimant No.1 is a widow hardly in late 20's of her life. Applicant Nos. 2 to 4 are the minors and the amount would be required for their up bringing. The applicant No.5 and 6 are the old parents. This Court is inclined to allow the application as below:-

**ORDER**

- (i) Application is partly allowed.
- (ii) The applicants are allowed to withdraw 50% of the amount deposited in this Court alongwith accrued interest on furnishing usual undertaking.
- (iii) Further 25% of the amount is permitted to be withdrawn alongwith accrued interest on furnishing solvent surety/security to the satisfaction of the learned Registrar (Judicial) of this Court.
- (iv) After the amount is withdrawn, 50% of the amount be kept in fixed deposit atleast 5 years and thereafter, the amount of interest quarterly be credited to the account of applicant No.1.

(v) The remaining amount be kept in fixed deposit in any nationalized bank till final disposal of the appeal.

(vi) In this, application stands disposed off.

**[KISHORE C. SANT, J.]**