

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

**CIVIL APPLICATION NO.3926 OF 2013
IN
FIRST APPEAL (ST) NO.15099 OF 2013**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mrs.Varsha Chavan for the applicant

Mr.Akshay Shinde i/b Mr.A.M.Kulkarni for the respondent no.1

CORAM : K.K.TATED, J.
DATED : 17/07/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 31.8.2012 passed by MACT, Sangli in MACP No.290 of 2009 awarding the sum of Rs.6,45,832/- with 7.5% p.a. by way of compensation.
- 3 The learned counsel for the applicant submits that they have already deposited entire awarded amount with interest in the Trial Court as per order dated 27.11.2013 passed by this court.
- 4 Statement is accepted.

5 The learned counsel for the applicant submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award. She submits that if entire amount is withdrawn by the claimant, nothing will survive in the present proceeding. She further submits that they have good chance of success in the present matter. She submits that the Tribunal erred in coming to the conclusion that the claimants' notional income be treated as Rs.6,000/- per month. She further submits that even the Tribunal has awarded excess amount towards the loss of future income, removing implants and pain and sufferings for 10 ½ months.

6 On the basis of these submissions, the learned counsel for the applicant submits that this Hon'ble Court be pleased to stay the operation and implementation of the judgment and award dated 31.8.2012 passed by MACT, Sangli in MACP No.290 of 2009 and direct the Tribunal to invest entire amount in fixed deposit during the pendency of the First Appeal.

7 On the other hand, the learned counsel for the respondents claimants vehemently opposed the present Civil Application. He submits that the Tribunal has considered the evidence on record and awarded compensation. He submits that the

claimants also preferred Civil Application 1410 of 2014 for withdrawal of the amount.

8 Considering the submissions made by the learned counsel for the applicant and as the applicant deposited entire awarded amount in the Tribunal, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

- a) Operation and implementation of the judgment and award dated 31.8.2012 passed by MACT, Sangli in MACP No.290 of 2009 is stayed till the hearing and final disposal of the First Appeal.
- b) Tribunal is directed to invest amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.
- c) Civil Application No.1410 of 2014 preferred by claimants for withdrawal of the amount be decided on its own merits.
- d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)