

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

**CIVIL APPLICATION NO.1006 OF 2015
IN
FIRST APPEAL NO.297 OF 2015**

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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Mr.H.G.Misar for the appellant

CORAM : K.K.TATED, J.
DATED : 05/03/2015

PC:

1 Not on board. At the request of Advocate for the appellant, matter is taken on board for urgent orders.

2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 22.9.2014 passed by MACT, Pune in MACP No.970 of 2010 by which the Tribunal awarded sum of Rs.18,07,400/- with 8% interest by way of compensation to the respondent.

3 The learned counsel for the applicant submits that the respondents claimants filed Execution Application No.23 of 2015 for recovery of entire amount. He submits that if the entire amount is

recovered by the respondents claimants in Execution Application No.23 of 2015, nothing will survive in the present proceeding. He further submits that it is very difficult for the applicant to recover the amount from the respondents claimants in case they succeed before this court. He further submits that he received instruction from the Insurance Company that they are ready and willing to deposit entire decretal amount in the Tribunal within six weeks from today.

4 Statement is accepted.

5 It is to be noted that in the present proceeding, Sanjay Bhosale died in an accident which occurred on 17.09.2010. On the date of accident, the deceased was self employed and owner of Workshop known as "Vaishner Engineers" having income of more than Rs.3.0 lacs per annum. The respondents claimants filed claim application under section 166 of the Motor Vehicles Act claiming compensation of Rs.50 lacs. Considering the evidence on record, the Tribunal has awarded sum of Rs.18,07,400/-. Considering these facts, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

(a) Operation and implementation of the

judgment and award dated 22.9.2014 passed by MACT, Pune in MACP No.970 of 2010 is stayed on the condition that applicant to deposit entire decretal amount with interest and cost in the Tribunal within six weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

(b) If amount is not deposited within stipulated time as stated hereinabove, respondents claimants are entitled to execute the award according to law.

(c) If amount is deposited within stipulated time as stated hereinabove, respondents claimants are entitled to withdraw following amount without furnishing any security:

(i) Anita Sanjay Bhosale – 15% of total compensation.

(ii) Shweta Sanjay Bhosale – 10% of total compensation.

(iii) Roshan Sanjay Bhosale – 5% of total compensation

(iv) Shakuntala Dyandev Bhosale – 5% of total compensation

(d) Tribunal is directed to invest remaining 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.

- (e) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of additional amount and that application be decided on its own merits.
- (f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)