

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

**CIVIL APPLICATION NO.795 OF 2013
IN
FIRST APPEAL NO.557 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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Ms.Varsha Chavan for the appellant
Ms.Yogita Deshmukh for the respondent no.1

CORAM : K.K.TATED, J.
DATED : 12/06/2015

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the impugned award dated 9.7.2012 passed by MACT, Malegaon in MACP No.301 of 2008 awarding a sum of Rs.3,88,000/- with 9% interest p.a. by way of compensation.
- 3 The learned counsel for the applicant submits that the Tribunal erred in coming to the conclusion that the respondent claimant is entitled compensation of Rs.3,88,000/-. She submits that the amount awarded by the Tribunal is on the higher side. She submits that they have good chance of success in the present matter.

4 The learned counsel for the applicant submits that as per order dated 26.3.2013 passed by this court, applicant already deposited entire decretal amount in the Tribunal. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award passed by Tribunal till the hearing and final disposal of the above mentioned First Appeal. She submits that if entire amount is withdrawn by the respondent claimant, nothing will survive in the present First Appeal.

5 On the other hand, the learned counsel for the respondent claimant submits that the amount awarded by the Tribunal is on the lower side. She submits that the respondent claimant on the date of accident was working as a Driver. Because of accident, it is impossible for him to carry on his profession as a Driver. Therefore, actually there is 100% disability. In spite of that, Tribunal awarded only Rs.3,88,000/- with interest @ 9% p.a. by way of compensation. She further submits that the respondent claimant preferred Civil Application No.1394 of 2015 for withdrawal of the amount and that application be decided on its own merits.

6 I have heard both the sides at length. Considering the submissions made by the learned counsel for the Applicant and as applicant already

deposited entire awarded amount in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. At the same time, application preferred by respondent claimant for withdrawal of the amount be decided on its own merits. Hence, following order:

(a) Operation and implementation of the judgment and award dated 9.7.2012 passed by MACT, Malegaon in MACP No.201 of 2008 is stayed till the hearing and final disposal of the First Appeal.

(b) Civil Application No.1394 of 2014 preferred by claimant be decided on its own merits.

(c) The Registry of this Court is directed to transfer the sum of Rs.25000/- if any deposited by the Insurance Company at the time of filing of First Appeal along with accrued interest to the Motor Accident Claims Tribunal, Malegaon in the account of M.A.C.P. No. 201 of 2008.

(d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)