

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

CIVIL APPLICATION NO.1283 OF 2015

IN

FIRST APPEAL (ST). NO.2504 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.Amar Gharte i/b Mr.VN.Sangare for the applicant

CORAM : K.K.TATED, J.

DATED : 27/03/2015

PC:

1 Not on board. At the request of Advocate for the applicant, 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 impugned judgment and award dated 3.7.2014 passed by MACT, Kolhapur in MACP No.101 of 2010 holding that the respondents original claimants are entitled compensation of Rs.12,92,048/- with 8% interest. Hence, there is urgency in the present matter.

3 The learned counsel for the applicant further submits that if entire amount is recovered by the respondents claimants in Execution Application,

nothing will survive in the present proceeding. He submits that in the interest of Justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal.

4 In the present proceeding, in an accident which occurred on 14.11.2009 respondents claimants lost their son. On the date of accident, deceased was 27 years old. He was working as a Driver with Jayem Automotive Ltd. Koimatur Branch, Kasarwadi. He was getting salary of Rs.13,000/- per month. On the basis of these facts, respondents claimants filed application under section 166 of the Motor Vehicles Act claiming compensation of Rs.12.0 lacs. On the basis of evidence, Tribunal has awarded sum of Rs.12,92,048/- with 8% interest.

5 Considering the fact that there is a delay on the part of the applicant to file the present First Appeal, respondents claimants are parents of the deceased, I am of the opinion that the claimants are entitled to withdraw some amount without furnishing any security at present. Hence, following order:

(a) Operation and implementation of the judgment and award dated 3.7.2014 passed by MACT, Kolhapur in MACP No.101 of 2010 is stayed

on the condition that applicant to deposit entire decretal amount with interest and cost in the Tribunal within four 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 i.e. Bhauso Baburao Bhosale and Vimal Bhauso Bhosale are entitled to withdraw sum of Rs.2,00,000/- lacs each with accrued interest without furnishing any security subject to outcome of the First Appeal.

(d) 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.

(e) 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.

(f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)