

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.968 OF 2015
IN
FIRST APPEAL NO.284 OF 2015

The Oriental Insurance Company Limited	...Applicant/ (Ori. Opponent)
vs.	
Kamal Ramchandra Shinde and Another	...Respondents

Mr. S.S. Jinsiwale, Advocate for the Applicant.

CORAM : K.K. TATED, J.

4TH MARCH 2015

P.C. :-

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

2] This application preferred by Insurance-Company for staying the operation and implementation of the impugned judgment and award dated 14-11-2014 passed by the M.A.C.T., Pune in Motor Accident Claim No. 537 of 2007 by which the Tribunal held that Respondents-claimants are entitled the compensation of Rs. 17,11,200/- with 7 % p.a. Interest.

3] The learned counsel for Applicant submits that the Respondents-claimants filed executive application. He submits that the trial Court kept the said application today for hearing. Hence, there is urgency in the matter.

4] The learned counsel for the Applicant submits that the Tribunal has awarded the compensation in favour of Respondents-claimants on higher side. He further submits that Insurance-Company had taken plea in the trial Court that the Tractor was not involved in the said accident and hence they are not liable to pay compensation. He further submitted that if the entire amount is recovered by the Respondents in execution application, nothing will survive in the First Appeal. He further submitted that the Applicant has good chance of success in the present matter. He submitted that Insurance-Company is ready and willing to deposit the amount including interest accrued with the Tribunal from four weeks. Statement is accepted.

5] In the present proceeding, the Respondents-claimants lost her daughter Vimal Shinde who was serving in New English School of Zilha Parshid as 'Assistant Teacher'. On the day of accident, deceased was 40 years old and she was getting salary of Rs. 12,653/-.

6] Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7] Considering the age of the claimant and reasons given by the Tribunal, I am of the opinion that Respondents-claimants are entitled to withdraw same amount without any security.

8] Hence, the following order:

A) The operation and implementation of the impugned judgment and award dated 14-11-2014 passed by the M.A.C.T., Pune in Motor Accident Claim No. 537 of 2007 is stayed till hearing and final disposed of First Appeal on condition that the Applicant to deposit the entire amount including interest accrued within four weeks from today with the office of Tribunal failing which the Civil Application shall stand dismissed.

B) If the Applicant failed to deposit the amount within stipulated time as stated hereinabove, the Respondent-claimant Sau. Kamal Ramchandra Shinde is entitled to execute award according to law.

C] If the amount is deposited within time, Respondent-claimant Sau. Kamal Ramchandra Shinde is entitled to withdraw the sum of Rs. 4,00,000/- (Four lacs only) with accrued interest without furnishing any security.

D) Liberty granted to the Respondent to prefer appropriate application if she desires for withdrawal of further amount and that application will be decided on its own merits.

8] Civil Application stands disposed of accordingly.

(K.K.TATED J.)