

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO. 5 OF 2015 IN F.A. (St.) NO. 4732 OF 2014
WITH
CIVIL APPLICATION NO. 1243 OF 2015 IN F.A. (St.) NO. 4732 OF 2014**

The Oriental Insurance Co. Ltd. ... Applicant
vs.
Ashok Dattu Disale & Anr. ... Respondents

Mr. D.S. Joshi, Advocate for the applicant.
Mr. T.J. Mendon, Advocate for respondents/original claimants.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **4th September, 2015**

P.C.:

Civil Application no. 5 of 2015

The learned counsel Mr. Mendon has filed appearance for respondent no. 1/original claimant. Issue notice to respondent no. 2/owner of tempo, returnable on 16th October, 2015. In addition to Court notice, private service is allowed.

Civil Application No. 1243 of 2015

This application is moved by the applicant to stay the operation and execution of the judgment and award passed by the Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 3869 of 2006 dated 3rd May, 2013.

2. The learned counsel for the applicant submitted that the execution proceeding is taken out and hence prays for stay of the impugned judgment and award.

3. The learned counsel for respondent no. 1/original claimant waives service. Respondent no. 2 is the owner of tempo, however, the insurance company is going to deposit the entire amount, as appeal is filed by the insurance company. Therefore, without serving respondent/owner of the tempo, the stay application can be disposed of with following order:

- (i) The applicant/insurance company is directed to deposit the entire amount of the award along with interest accrued thereon within 6 weeks before the Tribunal.
- (ii) On this condition, the operation and execution of the judgment and award dated 3rd May, 2013 is stayed pending Appeal.
- (iii) If the amount is not deposited by the insurance company within 6 weeks, then the original claimants are free to pursue execution proceedings.
- (iv) The statutory amount of Rs.25,000/- deposited in the High Court is to be transferred to MACT, Mumbai and the same may be invested in the fixed deposit.

4. With this, the Civil Application is disposed.

5. Place the First Appeal for admission on 16th October, 2015.

(MRS.MRIDULA BHATKAR, J.)