

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

CIVIL APPLICATION NO.682 OF 2015

IN

FIRST APPEAL (ST) NO.6728 OF 2014

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.Deepika Motagi with Mr.Rajesh Kenoji i/b
M/s.Res Juris for the applicant

CORAM : K.K.TATED, J.

DATED : 24/03/2015

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 judgment and award dated 20.9.2013 passed by MACT, Raigad at Alibag in MACP No.101 of 2009 awarding sum of Rs.2,76,500/- with 7.5% interest p.a by way of compensation to the respondent claimant.

3 The learned counsel for the applicant submits that if entire amount is recovered by the respondents claimants in Execution Application No.54 of 2014, nothing will survive in the present

proceeding. She further submits that the Tribunal has awarded compensation on the higher side. She submits that they have good chance of success in the present proceeding.

4 The learned counsel for the applicant submits that she received instruction from Insurance Company that they are ready and willing to deposit entire decretal amount in the Tribunal within four weeks from today.

5 Statement is accepted.

6 In the present proceeding, in an accident which occurred on 17.07.2008 respondent nos.1 and 2 lost their son. On the date of accident, the deceased was 26 years old and was working as a fisherman and earning Rs.36,000/- per annum. Considering the age of the claimant nos.1 and 2 and the reasons disclosed by the Tribunal in the impugned judgment and award dated 20.09.2013, 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 20.9.2013 passed by MACT, Raigad at Alibag in MACP No.101 of 2009 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 proceed with Execution Application No.54 of 2014 according to law.

(c) If amount is deposited within stipulated time as stated hereinabove, claimant no.1, Bhaskar Sahadeo Bhoir and claimant no.2, Gulab Bhaskar Bhoir, both of them are entitled to withdraw each 25% amount without furnishing any security.

(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.)