

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1211 OF 2015
IN
FIRST APPEAL ST.NO.7962 OF 2015

Royal Sundaram Alliance Insurance co. Ltd. .. Appellant
-Versus-
Ganesh Darshan Lohote & Ors. .. Respondents

Mr.Manoj Badgujar i/b. A.P.Kulkarni for appellants

CORAM : K.K.TATED, J.

DATE : 20th March 2015.

P.C.

1] Not on board. At the request of learned Advocate for appellant taken on board for urgent orders.

2] Learned Counsel for the applicant submits that the respondents claimants have filed execution application for recovery of awarded amount by MACT, Pune in Motor Accidents Claim Application No.839 of 2013 by order dated 26th November 2014. He submits that if the entire amount is recovered by the claimants, nothing will survive in the first appeal.

3] This application is for stay of the judgement and award dated 26th November 2014 passed by the MACT, Pune in MACP No.839 of 2013, awarding a sum of Rs.5 lakhs with 7.5 % interest to the respondents claimants by way of compensation. The learned Counsel for the applicants submits that in the present matter the deceased was 13 years old. Hence, according to the learned Counsel for applicant the compensation awarded by the tribunal is on higher side.

4] The learned Counsel for the applicants submits that in the interest of justice, this Court be pleased to stay the operation and implementation of the impugned judgement and award till further orders. He submits that he has instructions from the applicants that the applicants are ready and willing to deposit the entire awarded amount in Tribunal within four weeks.

5] In the present proceedings, the accident which occurred on 28th August 2013 in which Aditya Navnath Lohote died. The deceased was 13 years of age at the time of accident. On the basis

of these facts the respondents claimants filed an application under section 166 of Motor Vehicles Act for compensation of Rs.7 lakhs. Considering the evidence on record, the Tribunal awarded Rs.5 lakhs by way of compensation. The claimant No.1 and 2 are parents of the deceased. In these circumstances, I am of the opinion that at present they are entitled to withdraw some amount without furnishing security.

6] Hence, the following order:-

(a) The operation and implementation of the impugned award dated 26th November 2014 passed by the ad-hoc Dist.Judge -I, in MACP No.839 of 2014 is stayed on the condition that the applicants deposit the entire decretal amount with accrued interest and costs in the Tribunal within four weeks from today, failing which the application to stand dismissed without reference to court;

(b) If amount is not deposited as stated above, the respondents claimants are entitled to execute the award in accordance with law;

(c) If the amount is deposited within the stipulated time, the claimants Nos.1 and 2 are entitled to withdraw Rs.1 lakhs each from amounts deposited without furnishing security subject to outcome of first appeal:-

(d) The tribunal is directed to invest the remaining amount in fixed deposits of any nationalised bank initially for a period of one year and to be renewed from time to time till final disposal of the appeal;

(e) Liberty is granted to respondents claimants to prefer appropriate application for withdrawal of further amounts if they so desire. If such an application is made the same will be decided on its own merits.

(f) Civil application is disposed of accordingly.

(K.K.TATED, J.)

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Ganesh Darshan Lohote & Ors. .. Respondents

Mr.Manoj Badgujar i/b. A.P.Kulkarni for appellants

CORAM : K.K.TATED, J.
DATE : 20th March 2015.

P.C.

- 1] Not on board. At the request of learned Advocate for the appellants taken on board for urgent orders.
- 2] The appellants are directed to remove office objections on or before 31st March 2015 failing which the first appeal to stand dismissed without reference to court.
- 3] If office objections are removed, the office is directed to place the matter on board for admission on 10th April 2015.

(K.K.TATED, J)