

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

**CIVIL APPLICATION NO.2276 OF 2015
IN
FIRST APPEAL (ST) NO.8191 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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Mrs.Urmila K. Sanil for the applicant

CORAM : K.K.TATED, J.
DATED : 17/07/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the award dated 19.6.2014 passed by MACT, Thane in MACP No.453 of 2008 till the hearing and final disposal of the First Appeal.
- 3 The learned counsel for the applicant submits that the Tribunal by impugned award awarded a sum of Rs.6,20,945/- with 7% interest p.a. by way of compensation. She submits that in an accident which occurred on 19.4.2008 the daughter of applicant no.1, Kum.Asma who was 8 years old died in the Hospital on 24.4.2008. She submits that considering the age of the deceased the Tribunal has awarded compensation on the higher

side. She submits that if entire amount is recovered by the claimants by filing Execution Application then nothing will survive in the present First Appeal. She submits that they have good chance of success in the present proceeding.

4 The learned counsel for the applicant submits that she received instructions from the Insurance Company that they are ready and willing to deposit entire awarded amount with interest and cost in the Tribunal within six weeks from today.

5 Statement is accepted.

6 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and as the applicant is ready and willing to deposit entire awarded amount in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7 As this order is passed without issuing notice to the respondents claimants, liberty granted to them to prefer appropriate application for withdrawal of amount and that application be decided on its own merits.

8 Considering the facts of the present case, I am of the opinion that the claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

(a) Operation and implementation of the award

dated 19.6.2014 passed by MACT, Thane in MACP No.453 of 2008 is stayed till further orders on the condition that applicant to deposit entire decretal amount with interest and cost in the Tribunal within six 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, both the respondents are entitled to withdraw 15% each with accrued interest without furnishing any security subject to the outcome of the First Appeal.

(d) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of further amount and that application be decided on its own merits.

(e) In the meanwhile, 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.)