

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

**CIVIL APPLICATION NO.2120 OF 2015
IN
FIRST APPEAL (ST). NO.10198 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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Ms.Yogita Deshmukh for the applicant

CORAM : K.K.TATED, J.
DATED : 17/06/2015

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 for stay of the operation and implementation of the judgment and award dated 25.04.2014 passed by MACT, Nasik in MACP No.884 of 2010 by which the Tribunal awarded sum of Rs.2,83,600/- with 9% interest p.a. by way of compensation.

3 The learned counsel for the applicant submits that respondents claimants filed Execution Application for recovery of entire amount. He submits that attachment warrant is issued in Execution Application. He submits that if entire

amount is recovered in Execution Application, nothing will survive in the proceedings.

4 The learned counsel for the applicant submits that in the present proceeding, Tribunal has categorically held that there was breach of the terms and conditions of the Insurance Policy and inspite of that Tribunal has held that Insurance Company is liable to pay compensation. She submits that this is contrary to settled law. She further submits that even the amount awarded by the Tribunal is on higher side. She submits that they have good chance of success in the present proceedings.

5 The learned counsel for the applicant submits that if entire amount is recovered by the claimants in Execution Application, nothing will survive in the present proceeding. She submits that she received instruction from the Insurance Company that they are ready and willing to deposit entire amount in the Tribunal within four weeks from today. Statement is accepted.

6 In the present proceeding, in an accident which occurred on 10.6.2010 respondent claimant sustained serious injuries including fracture of R/U right femur leg. Doctor operated for two times on his left leg.

7 Considering these facts and as there is a delay

on the part of Insurance Company for filing First Appeal by 202 days, I am of the opinion that respondents claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

(A) Operation and implementation of the judgment and award dated 25.4.2014 passed by MACT, Nasik in MACP No.884 of 2010 is stayed on the condition that applicant Insurance Company to deposit entire awarded amount including interest and cost, if any 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 execute the award according to law.

(C) If amount is deposited within stipulated time as stated hereinabove, respondent claimant is entitled to withdraw 50% amount without furnishing any security but subject to outcome of the First Appeal.

(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 for withdrawal of amount if he so desires, and that application be decided on its own merits.

(F) Civil Application is disposed of accordingly.

(K.K.TATED, J.)