

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

**CIVIL APPLICATION NO.1606 OF 2015
IN
FIRST APPEAL (ST) NO.12145 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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Mr.A.S.Vidyarthi for the applicant

CORAM : K.K.TATED, J.
DATED : 28/04/2015

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 judgment and award dated 17.11.2014 passed by MACT, Thane in MACP No.106 of 2010 awarding sum of Rs.40,84,000/- with 7.5% interest by way of compensation to the respondents claimants.
- 3 The learned counsel for the applicant submits that they are ready and willing to deposit entire decretal amount in the Tribunal within 4 weeks from today.
- 4 Statement is accepted.
- 5 In the present proceeding, in an accident

which occurred on 19.10.2009 respondent claimant sustained fracture of Iliac bone, fracture of anterior pillar, roof and posterior pillar of left acetabulum, fracture of superior and inferior pubic rami on left side, fracture of body of pubis, fracture of ribs right 3, 4 and 5, and blunt injury of abdomen.

6 At the time of accident respondent claimant was working as a Civil Engineer with ESSDEE Infra Structures Pvt.Ltd. and earning Rs.28000 per month. Because of accident, he could not join his duty till 1/6/2010 i.e. for a period of 8 months. Trial Court also recorded that claimants are entitled sum of Rs.325000 towards hospitalisation and medical expenses.

7 Considering the injury sustained by the respondent claimant, the reason disclosed by the Tribunal and as there is a delay of more than 40 days in filing First Appeal in this court, I am of the opinion that respondent claimant is entitled to withdraw some amount. Hence, following order:

a) Operation and implementation of the impugned judgment and award dated 17.11.2014 passed by MACT, Thane in MACP No.106 of 2010 is stayed on the condition that applicant to deposit entire awarded amount including 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, respondent claimant is entitled to prefer appropriate proceeding for recovery of entire awarded amount.

c) If the amount is deposited within stipulated time as stated hereinabove, respondent claimant is entitled to withdraw sum of Rs.10.0 lacs with accrued interest 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 First Appeal.

e) Liberty granted to the respondent claimant to prefer appropriate application if they so desire for withdrawal of further amount and that application be decided on its own merits.

f) Civil application stands disposed off accordingly.

(K.K.TATED, J.)