

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

**CIVIL APPLICATION NO.1998 OF 2015
IN
FIRST APPEAL (ST) NO.12915 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.S.S.Jinsiwale for the applicant

CORAM : K.K.TATED, J.
DATED : 09/06/2015

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 preferred by Insurance Company for stay of the operation and implementation of the award dated 14.11.2014 passed by MACT, Pune in MACP No.536 of 2007 awarding sum of Rs.5,16,000/- with 7% interest by way of compensation.

3 The learned counsel for the applicant submits that the respondent claimant filed Execution Application for recovery of awarded amount. He submits that if entire amount is recovered by the respondents claimants in Execution Application,

nothing will survive in the present proceeding.

4 The learned counsel for the applicant submits that the Tribunal has awarded compensation on higher side. He further submits that on the facts and circumstances of the present case, Insurance Company is not liable to pay any compensation to the respondents claimants.

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

6 Statement is accepted.

7 In the present proceeding, Dadasaheb Rambhaji Shinde died in an accident which occurred on 14.12.2012. Hence, parents of the deceased filed Claim Petition under section 166 of the Motor Vehicles Act claiming compensation of Rs.4.0 lacs. During the pendency of the Claim Petition, the father expired. Hence, his name was deleted from the cause title of Claim Petition. The deceased was driver by profession. The Trial Court has considered income of the deceased @ Rs.3000 per month. On the date of accident, the deceased was 20 years old. Considering these facts, the Trial Court has awarded sum of Rs.5,16,000/- by way of compensation.

8 Considering the reason given by the Trial Court, 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 14.11.2014 passed by MACT, Pune in MACP No.536 of 2007 is stayed on the condition that applicant Insurance Company to deposit entire decretal amount along 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 execute the award according to law.

(c) If amount is deposited within stipulated time as stated hereinabove, respondent claimant, Malan Rambhaji Shinde is entitled to withdraw sum of Rs.2,00,000/- 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 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.)