

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

**CIVIL APPLICATION NO.2052 OF 2015
IN
FIRST APPEAL (ST). NO.14387 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.Nikhil Mehta i/b M/s.KMC Legal Venture
for the applicant

CORAM : K.K.TATED, J.
DATED : 12/06/2015

PC:

- 1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.
- 2 Heard the learned counsel for the applicant.
- 3 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated dated 20.11.2014 passed by MACT, Satara in M.A.C.P No.531 of 2011 holding that the respondents claimants are entitled sum of Rs. 14,92,700/- with 9% p.a. by way of compensation.
- 4 The learned counsel for the applicant submits that he received email message from his client stating that respondents claimants filed Execution

Application. He submits that if entire amount is recovered by the respondents claimants in Execution Application, nothing will survive in the present proceeding. Hence there is urgency.

5 The learned counsel for the applicant submits that in the present proceeding Tribunal has deducted 1/3rd amount of the total compensation payable to respondent/claimant instead of 50%. He also submits that the Tribunal has considered multiplier as well as awarded compensation on the higher side. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the respondents in Execution Application, nothing will survive in the present proceeding.

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

7 Statement is accepted.

8 In the present proceeding, in an accident which occurred on 24.8.2011 respondents claimants lost their son. On the date of accident, he was 19 years old. Hence, respondents claimants filed application u/s 166 of the Motor Vehicles Act, 1988 for compensation. Considering

the facts and circumstances of the present case, the respondents claimants lost their son of 19 years, I am of the opinion they are entitled to withdraw some amount without furnishing any security. Hence, following order:

- a) Operation and implementation of the judgment and award dated 20.11.2014 passed by MACT Satara in M.A.C.P. No.531 of 2011 is stayed on the condition that applicant to deposit entire awarded amount along with interest and cost if any in the Tribunal within four weeks from today, failing which Civil Application shall stand dismissed without further reference to the court.
- b) If amount is not deposited within stipulated time, respondent claimant are entitled to proceed with Execution Application for recovery of the amount.
- c) If the amount is deposited within stipulated time as stated hereinabove, Respondent no.1, Dadaso Ramchandra Thombre and respondent no.2, Sangeeta Dadaso Thombre, both of them are entitled to withdraw 20% amount each without furnishing any security but subject to the 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 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.)