

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

**CIVIL APPLICATION NO.2049 OF 2015
IN
FIRST APPEAL (ST). NO.15328 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.Rahul 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 3.12.2014 passed by MACT Pune in M.A.C.P No.696 of 2009 awarding sum of Rs.12,23,000/- with 6% 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 they preferred the present First Appeal against the impugned award mainly on the ground of quantum. Tribunal has awarded sum of Rs.12,23,000/- by way of compensation which is on higher side.

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 25.5.2009 respondent claimant no.1 lost her husband. On the date of accident, he was 37 years old. Claimant nos.2, 3 and 4 are minors. Considering these facts, I am of the opinion that claimant no.1, Ruksana Ibrahim Shaikh, is entitled to withdraw some amount without furnishing any security but subject to outcome of the First Appeal. Hence, following order:

- a) Operation and implementation of the judgment and award dated 3.12.2014 passed by MACT Pune in M.A.C.P. No.696 of 2009 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/claimant no.1, Ruksana Ibrahim Shaikh is entitled to withdraw 30% amount with accrued interest 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.)