

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

**CIVIL APPLICATION NO.2213 OF 2015
IN
FIRST APPEAL (ST). NO.15751 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.Kalpana Trivedi for the applicant

CORAM : K.K.TATED, J.
DATED : 01/07/2015

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 impugned judgment and award dated 28.8.2014 passed by MACT, Ratnagiri in MACP NO.39 of 2013 holding that the claimants are entitled Rs.2,25,000/- with 7.5% interest by way of compensation.

3 The learned counsel for the applicant submits that respondents claimants filed Execution Application bearing no.9 of 2015 for recovery of awarded amount. She submits that if entire

amount is recovered by the claimants in Execution Application, nothing will survive in the present proceeding.

4 The learned counsel for the applicant submits that respondents claimants filed application under section 163-A of the Motor Vehicles Act, 1988 claiming sum of Rs.6.0 lacs by way of compensation. She submits that the Trial Court instead of considering the table for awarding compensation decided the matter on the basis of loss of income. For that purpose, she relies on the paragraph 9 of the impugned award. She further submits that the Trial Court awarded excess amount towards compensation. She submits that they have good chance of success in the present matter. She submits that if stay is not granted, irreparable loss and injury will be caused to the applicant.

5 The learned counsel for the applicant further submits that she received instruction from the Insurance Company that they are ready and willing to deposit entire awarded amount in the Trial Court within four weeks from today. Statement is accepted.

6 In the present proceeding, in an accident which occurred on 30.10.2012 respondents claimants sustained injury to her left eye.

Dr.Radharani Prabhakar Patil issued permanent disability certificate Ex.34 assessing the disability of 30%.

7 Considering these facts, I am of the opinion that the respondents claimants are entitled to withdraw some amount without furnishing any security.

8 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

(a) Operation and implementation of the judgment and award dated 28.8.2014 passed by MACT, Ratnagiri in MACP No.39 of 2013 is stayed on the condition that applicant 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 can proceed with Execution Application No.9 of 2015 for recovery of awarded amount.

(c) If amount is deposited within stipulated time as stated hereinabove, respondents claimants are

entitled to withdraw 50% amount without furnishing any security subject to outcome of the First Appeal.

(d) Liberty granted to the respondents claimants to prefer appropriate application if she so desires for withdrawal of additional amount and that application be decided on its own merits.

(e) 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.

(f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)