

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

**CIVIL APPLICATION NO.1149 OF 2015
IN
FIRST APPEAL (ST). NO.18728 OF 2014**

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.Sandeep J. Jinsiwale for the applicant

CORAM : K.K.TATED, J.
DATED : 07/08/2015

PC:

1 Not on board. At the request of learned counsel 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 judgment and award dated 23.1.2014 passed by MACT, Nasik in MACP No.430 of 2007.

3 The learned counsel for the applicant submits that respondents claimants filed Execution Application No.160 of 2014. He submits that if entire amount is recovered by the claimants in Execution Application, nothing will survive in the present proceeding. Hence, there is urgency.

3 The learned counsel for the applicant submits that in the accident which occurred on 7.2.2006

respondent claimant sustained injuries. He submits that on the date of accident, respondent claimant was 19 years old and he was taking education. He submits that the Tribunal without considering the evidence on record held that the respondents claimants are entitled compensation amount of Rs.10,80,800/- with 9% interest p.a. He submits that compensation awarded by the Tribunal is on higher side. He submits that they have good chance of success in the present proceeding.

4 The learned counsel for the applicant Insurance Company submits that he received instruction from the Insurance Company that Insurance Company is ready and willing to deposit entire awarded amount within four weeks from today. Statement is accepted.

5 In the present proceeding, in an accident which occurred on 7.2.2006 respondent claimant sustained injuries. Because of accident respondent was admitted in City Care Hospital and thereafter, he was shifted to Medical College Hospital and Research Centre for medical treatment where Doctors operated on his right leg and amputated right leg from above knee. It was the contention of the claimant that they spent Rs.5,00,000/- on medical treatment and they required further Rs.6,00,000/- for future medical treatment. Hence,

respondents claimants filed application under section 166 of the Motor Vehicles Act for compensation of Rs.20 lacs. Tribunal has awarded compensation amount of Rs.10,80,800/-.

6 Considering these facts, I am of the opinion that claimant is entitled to withdraw some amount without furnishing any security. Hence, following order:

(a) Operation and implementation of the judgment and award 23.1.2014 passed by MACT, Nasik in MACP No.430 of 2007 is stayed on the condition that applicant to deposit entire decretal amount 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 is entitled to withdraw sum of Rs.5,00,000/- 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 and half year and same be continued till the hearing and final disposal of the 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 is disposed of accordingly.

(K.K.TATED, J.)