

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

**CIVIL APPLICATION NO.3804 OF 2014
IN
FIRST APPEAL (ST) NO.19249 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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Ms.Yogita Deshmukh i/b Mr.M.M.Sathaye for the applicant

CORAM : K.K.TATED, J.
DATED : 06/04/2015

PC:

1 Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 The learned counsel for the applicant submits that the respondents claimants filed Execution Application for recovery of entire amount. She submits that the next date in the said Execution Application is tomorrow i.e. 7.4.2015. Hence, there is urgency. She submits that if respondents claimants recovered entire amount in Execution Application, nothing will survive in the present proceeding.

3 The learned counsel for the applicant submits that in the present proceeding, the tribunal passed

judgment and award dated 3.12.2013 holding that the respondents claimants are entitled sum of Rs.2,41,334/- with 7.5% interest by way of compensation.

4 The learned counsel for the applicant submits that the Tribunal erred in coming to the conclusion that the respondents claimants are entitled sum of Rs.1.0 lac towards pain and suffering. She submits that in the present proceeding the accident took place on 10.6.2006 in which the original applicant Ashish Shantaram Bhagat sustained injury. During the pendency of the claim petition, the claimant Ashish Shantaram Bhagat expired on 25.5.2007. 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 instructions from the Insurance Company that they are ready and willing to deposit entire decretal amount in the Tribunal within four weeks from today.

6 Statement is accepted.

7 It is to be noted that in the present proceeding, in an accident which occurred on 10.6.2006 the deceased Ashish Shantaram Bhagat sustained injury. On the basis of his income Tribunal has

held that respondents claimants are entitled sum of Rs.2,41,334/- with 7.5% interest by way of compensation. Considering the fact that claimants nos.1/3 and 1/4 are Senior Citizens and 1/2 is minor, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security. Hence, following order:

(a) Operation and implementation of the judgment and award dated 3.12.2013 passed by MACT, Raigad at Alibag in MACP No.718 of 2006 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, respondents claimants Nos.1/1 Ananya Ashish Bhagat, 1/3 Shantaram Changu Bhagat and 1/4 Manisha Shantaram Bhagat are entitled to withdraw sum of Rs.25,000/- each with accrued interest without furnishing any security subject to outcome of 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 additional amount and that application be decided on its own merits.

(f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)