

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

**CIVIL APPLICATION NO.3678 OF 2014
IN
FIRST APPEAL NO.1273 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. S.M.Dange for the applicant

CORAM : K.K.TATED, J.
DATED : 14th JANUARY, 2015

PC:

1 Heard learned counsel for the applicant.

2 This application is preferred by the insurance company for stay of operation and implementation of the impugned judgment and award dated 23.10.2013 passed by the Motor Accident Claims Tribunal, Mumbai in Application No.1329 of 2008 holding that respondent/claimant is entitled to compensation of Rs.5,65,960/-with 7.5 % interest from the date of application till its realization.

3 The learned counsel for the applicant states that as per the order dated 5.11.2014 passed by this Court, they have already deposited entire decretal amount in the trial Court. Statement is accepted. The learned counsel for the applicant submits that the respondent-original claimant has taken out execution proceeding against the insurance company. If entire amount is recovered by the respondent-original claimant in execution application then nothing will survive in this application. Therefore, operation and implementation of the impugned judgment and award dated 23.10.2013 be stayed till the final hearing and disposal of the first appeal.

4 In the present proceeding, respondent-claimant-Chandrakant Ramchandra Sawant sustained injury in accident. At that time, respondent-original claimant was doing business. Because of accident, he was unable to do his business for more than one month. Considering these facts, respondent-claimant is entitled to withdraw some amount without furnishing securities.

5 Hence, the following order:

(a) Civil application is allowed in terms of prayer clause (a), which reads thus:

“(a) Pending the hearing and final disposal of the above appeal, the judgment and award dated 23.10.2013 passed by Member, Motor Accident Claims Tribunal, Mumbai in MACT No.1329 be stayed.”

(b) At present respondent no.1- Chandrakant Ramchandra Sawant is entitled to withdraw sum of Rs.2,50,000/-without furnishing any securities.

(c) Liberty is granted to the respondent no.1 to prefer appropriate application if he so desires to withdraw the remaining amount and that application shall be decided on its own merits.

(d) Till further orders, tribunal is directed to invest remaining amount in fixed deposit of any nationalized bank initially for a period of 3 years and same to be continued

till further orders of this Court.

6 Civil application stands disposed
of.

(K.K.TATED, J.)