

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

**CIVIL APPLICATION NO. 74 OF 2016
IN
FIRST APPEAL (ST.) NO. 338 OF 2016**

Managing Director,
Karnataka S.T. Corporation

... Applicant.

V/s.

Sou. Suvarna Kallappa Jalwadi & Anr.

... Respondents

Mr. C. M. Lokeshappa for the applicant.

**CORAM : K. K. TATED, J.
DATED : 08/01/2016**

P.C.:

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

2 This application is for stay of operation and implementation of impugned Judgment and Award dated 06.05.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 352 of 2013 holding that the respondents-claimants are entitled to sum of Rs.13,05,000/- with interest @ 9% per annum from the date of filing of petition till its realisation.

3 The learned Counsel for the applicant submits that Executing Court has issued warrant for attachment. Hence, there is an urgency in the present matter.

4 The learned Counsel for the applicant submits that the Trial Court has not considered the contributory negligence at the time of awarding the compensation. He submits that the respondents-claimants failed to produce the cogent evidence on record to show the income of the deceased. In spite of that the Trial Court considered the monthly income of deceased Rs.5,000/- and awarded 50% for future loss. In this way, the Trial Court calculated the compensation payable to the respondents-claimants at the rate of Rs.7500/- per month. From that amount the Trial Court deducted $\frac{1}{3}$ rd amount towards the personal and living expenses of the deceased in view of principle laid down by the Apex Court in the matter of Sarala Verma case. In this way, the Trial Court calculated the compensation payable to the claimant @ Rs.5000/- per month taking into consideration multiplier of 18. He submits that Trial Court has awarded the compensation on higher side.

5 The learned Counsel for the applicant submits that they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned Judgment and Award passed by the Tribunal till the hearing and final disposal of the First Appeal.

6 The learned Counsel for the applicant submits that he received instructions from the applicant that they are ready and willing to deposit entire awarded amount in Tribunal within eight weeks from today. The statement is accepted.

7 In the present proceeding, the accident occurred on 22.07.2013.

The Claimant No.1 lost her son Rajnikant Kallappa Jalwadi. At that time, he was serving in M/s. Paranjape Autocast M.I.D.C. Satara. As per contention of claimants, her son was getting salary of Rs.7844/- per month. He was 22 years old. On the basis of these facts, the Respondent-Claimants filed application under Section 166 of Motor Vehicle Act claiming compensation of Rs.22,75,000/-. Considering the evidence on record, the Tribunal has awarded sum of Rs.13,05,000/- by way of compensations, I am of the opinion that respondents-claimants are entitled to withdraw some amount without furnishing any security but subject to the outcome of the First Appeal.

8 Hence, following order.

- a) Operation and implementation of the impugned Judgment and Award dated 06.05.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P No. 352 of 2013, is stayed till the hearing and final disposal of the First Appeal on condition that Applicant to deposit the entire amount including interest and cost in the Tribunal within 8 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 herein above, the respondents-claimants are free to execute the Award according to law.
- c) If amount is deposited within stipulated time as stated herein above, the respondents-claimants are entitled to withdraw the following amount with accrued interest

without furnishing any security, but subject to outcome of the First Appeal.

i) Sou. Suvarna Kallappa Jalwadi, Rs.3,00,000/-.

ii) Shri.Anantkumar Kallappa Jalwadi, Rs.2,00,000/-

d) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

e) Liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the further amount and that application will be decided on its own merits.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)