

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

**CIVIL APPLICATION NO.422 OF 2016
IN
FIRST APPEAL (ST). NO.2553 OF 2016**

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.Rahul Mehta i/b M/s.KMC Legal Venture
for the applicant

CORAM : K.K.TATED, J.
DATED : 04/02/2016

PC:

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

2 The learned counsel for the applicant submits that respondent claimant filed Execution Application No.45 of 2015 for recovery of entire amount. He submits that if entire amount is recovered, then nothing will survive in the present proceeding. Hence, there is urgency.

3 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 29.8.2015 passed by MACT, Pune in MACP No.314 of 2014 awarding sum of Rs.14,63,000/- with 9%

interest to the respondent claimant.

4 The learned counsel for the applicant submits that in the present proceeding, Tribunal erred in coming to the conclusion that the Insurance Company is liable to pay compensation though there is breach of the terms and conditions of the policy. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the respondent claimant in Execution Application nothing will survive in the present matter.

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

6 In the present proceeding, respondent claimant lost her husband in an accident which occurred on 20.10.2010. As per the contention of the claimant the deceased was 54 years old and he was earning Rs.20,000/- to Rs.25,000/- per month. Considering these facts, and as there is a delay on the part of Insurance Company in preferring the present First Appeal, respondent claimant is entitled to withdraw some amount without furnishing any security. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 29.8.2015 passed by MACT, Pune in MACP No.314 of 2014 is stayed, till hearing and final disposal of the appeal on condition that the Applicant Insurance Company to deposit the entire awarded amount with interest, cost, if any, in the Tribunal within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondent-claimants are entitled to execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-claimants are entitled to withdraw 20% amount each, without furnishing any security subject to out come of the appeal.

d. The Tribunal is directed to invest the remaining award amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

e. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on

its own merits

f. The statutory deposit made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

(K.K.TATED, J.)