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

CIVIL APPLICATION NO. 737 OF 2016
IN
FIRST APPEAL NO. 292 OF 2016

IFFCO TOKIO General Insurance Co. Ltd. … Applicant

V/s.

Asim Mohammad Iqbal Shaikh and another … Respondents

Mrs. Varsha Chavan Advocate for the Applicant
Mrs. M. S. Bagwan Advocate for the Respondent no. 1

CORAM : K. K. TATED, J.
DATED : 24/02/2016

P.C.:

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

2) Learned counsel Mrs. M. S. Bagwan submits that she received instructions to appear on behalf of respondent no. 1. She undertakes to file her Vakalatnama within 2 weeks from today. Statement is accepted.

3) This application is preferred by Insurance Company for stay of operation and implementation of Judgment and Award dated 25/08/2015 passed by Motor Accident Claims Tribunal, Mumbai in M.A.C. Petition No. 1184 of 2010 by which Tribunal held that

respondent claimant is entitled to the sum of Rs. 23,57,000/- with 7.5% interest per annum by way of compensation. Learned counsel for the applicant submits that respondent claimants filed execution application in which Execution Court issued warrant of attachment. She submits that pursuant to the said order of attachment, their bank account attached to the extent of Rs. 23,57,000/-.

4) Learned counsel for the applicant submits that Tribunal erred in coming to the conclusion that respondent claimants are entitled to the sum of Rs. 23,57,000/- by way of compensation. She submits that Tribunal failed to consider the fact that respondent driver of the offending vehicle was not holding a valid licence at the time of accident. Hence, Insurance Company is not liable to pay any compensation.

5) On the other hand, learned counsel Mrs. M. S. Bagwan appearing on behalf of respondent claimants vehemently opposed present civil application. She submits that applicant has not shown sufficient cause for stay of impugned Judgment and Award passed by Tribunal.

6) Learned counsel appearing on behalf of Insurance Company submits that she received instructions from Insurance Company that they are ready and willing to deposit the entire awarded amount in Tribunal within 2 weeks from today. Statement is accepted.

7) Considering the submissions made by learned counsel for the applicant and averments made in civil application and as applicant Insurance Company is ready and willing to deposit the entire awarded amount within 2 weeks from today in Tribunal, I am satisfied that applicant has made out case for allowing this civil application.

8) Hence, following order.

(i) Civil Application is allowed in terms of prayer clause (a) which reads thus:

> "(a) That pending the hearing and final disposal of this appeal, the implementation and/or the execution of the Award dated 25/08/2015 passed by Member, MACT, Mumbai in application no. 1184 of 2010 be kindly stayed."

(ii) If amount is not deposited within the stipulated time as stated herein above, respondent claimants are entitled to execute the award according to Law.

(iii) If amount is deposited within stipulated time as stated herein above, Tribunal is directed to invest the entire amount in fixed deposit in any nationalized bank, initially for a period of 1 year and the same to be continued until further orders.

(iv) Liberty granted to the respondent claimants to prefer appropriate application for withdrawal of the amount and that application be decided on its own merits.

(v) Amount deposited by the applicant at the time of filing first appeal to be transferred to the concerned Tribunal with accrued interest, if any, immediately.

(vi) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)