

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

**CIVIL APPLICATION NO. 374 OF 2015
IN
FIRST APPEAL (ST.) NO. 14211 OF 2014**

New India Assurance Co. Ltd. ... Applicant.
V/s.
Smt. Sakshi Santvijay Pednekar & Anr. .. Respondents

Mr. Ramesh Cheulkar for the applicant.

**CORAM : K. K. TATED, J.
DATED : 13/01/2016**

PC.:

. Heard learned Counsel for the applicant.

2 This civil application is preferred by Insurance Company stay of operation and implementation of the Judgment and Award dated 31.07.2013 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 3486 of 2008 by which the Tribunal held that the respondent-claimant is entitled to Rs.88,000/- with interest @ 7.5% per annum by way of compensation.

3 The learned Counsel for the applicant submits that the Tribunal has awarded compensation on higher side. 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. He submits that they have good chance of success in the present matter.

4 In the present proceeding, the accident which occurred on 22.04.2008, the respondents-claimants sustained several injuries. Because of that she was indoor patient in Bhabha Hospital, Mumbai from 22.04.2008 to 25.04.2008. She spent sum of Rs.25,000/- toward medical expenses, special diet and conveyance. Hence, the Respondent claimant filed application under Section 166 of M.V. Act for compensation of Rs.2,00,000/-.

5 Considering the facts on record, the Tribunal awarded sum of Rs.30000/-toward pain and suffering, Rs.8000/- towards medical expenses, Rs.5000/- towards special diet, Rs.5000/- towards conveyance and Rs.40000/- towards loss of enjoyment & amenities of life.

6 Considering these facts, I am of the opinion that the respondent-claimant is entitled to withdraw some amount without furnishing any security.

7 Hence, following order.

a) Operation and implementation of the impugned Judgment and Award dated 31.07.2013 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 3486 of 2008 is stayed till the hearing and final disposal of the First Appeal on condition that Applicant to deposit the entire awarded amount including 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 herein above, the respondent-claimant is free to execute the Award according to law.

c) If amount is deposited within stipulated time as stated herein above, Respondent claimant Smt. Sakshi Santvijay Pednekar, is entitled to withdraw sum of Rs.30,000/- with accrued interest without furnishing any security, but subject to the outcome of the First Appeal.

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 respondent claimant to take out appropriate application, if she 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.)