

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1695 OF 2016
WITH
CIVIL APPLICATION NO.3833 OF 2016
WITH
CIVIL APPLICATION NO.1715 OF 2017

Ramdas Panduran Thore	...Appellant
<i>Versus</i>	
Prakash Shankar Kakad	...Respondent

Mrs Aruna Kamath Pai, for the Appellant.
Mr Sanjay Murlidhar Chakor, Representative of the Appellant is
present.
Ms Priti Tare, for the Respondent.

CORAM: G.S. PATEL, J
DATED: 14th July 2017

PC:-

1. This is an Appeal by the original Opponent to the claim. He was the driver of the vehicle in question. The Motor Accident Claims Tribunal (“MACT”) awarded an amount of Rs.6,08,180/-. The Claimant who is the Respondent to the Appeal suffered an injury fracturing his right hand above the ulna. At that time he was working as a Peon in the New English School, Panewadi with an

income of Rs.15,000/- per month. The Appeal has been admitted and is pending for final disposal. The delay has also been condoned.

2. By the present Civil Application No.1715 of 2017, the Appellant seeks that he be permitted to deposit only an amount of Rs.1,50,000/-. By an order dated 24th November 2016 (GS Kulkarni J), the Appellant was permitted to deposit only an amount of Rs.4,00,000/- from the amount awarded. On 11th April 2017 the Appellant made another application for reduction of the amount of deposit to Rs.1,50,000/-. This Civil Application was rejected by an order of 11th April 2017 (also GS Kulkarni J). Kulkarni J found no reason to interfere but granted liberty to file an appropriate application seeking that the previous order of 24th November 2016 be vacated and for other appropriate reliefs. The present application says that the Appellant is willing to deposit Rs.1,50,000/- before the Tribunal within a period of four weeks. He says he has taken a loan of Rs.4,00,000/- on his agricultural land and this is his only source of livelihood. He also says that the land is notified as famine-affected. He therefore also seeks time to deposit the amount of Rs.1,50,000/-.

3. The Application is opposed. In the reply Affidavit there is an assertion that the Appellant regularly cultivates his land. The Respondent says that apart from everything else the Appellant also cultivates profitable pomegranate on his farms. Other members of the family are also earning. The Appellant has a four wheeler motor car and a tractor. On the other hand, the Respondent, who is a peon and the only member of the family, earns Rs.15,000/- per month but

has suffered a 20% disability and requires surgery. This cost is estimated at about Rs.70,000/-.

4. Having regard to the relevant position of the two parties, and the material on record, I do not think it is possible to accept the application that is now being made. This application was once made and rejected. As it is, the Applicant has been allowed by the order of 24th November 2016 to deposit an amount only Rs.4,00,000/-. This is considerably less than the amount awarded and does not even include the accrued interest.

5. It will not be possible to grant the relief sought.

6. At this stage, Mrs Pai on taking instructions from Mr Sanjay Murlidhar Chakor, who is an authorised representative of the Appellant, makes a statement that the Appellant will deposit the amount within a period of six weeks from today. This statement is accepted as an undertaking to the Court. The amount is to be deposited by 15th September 2017. I have granted a slightly longer period to ensure that there is no default.

7. In the meantime, the previous order of stay on the execution will continue.

8. The Civil Application is disposed of in these terms and on acceptance of this undertaking.

(G. S. PATEL, J.)