

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1965/2019
IN
FIRST APPEAL (STAMP)NO.3410/2019

Reliance General Insurance Co.Ltd. ... Applicant.

Vs.

Ananda S. Patil & Anr. ... Respondents.

Mrs.Shalini Shankar, advocate for applicant.

CORAM : K.K.TATED, J.
DATED : JUNE 17, 2019.

P.C.

Heard learned counsel for applicant.

2. By this civil application, applicant/Insurance Company is seeking stay of, operation and implementation of impugned judgment and award dated 12.7.2018 passed by Motor Accident Claim Tribunal in petition No.202/2012 holding that, respondent/claimants are entitled sum of Rs.2,33,100/- by way of compensation with 9% interest p.a.

3. Learned counsel for applicant submits that if entire awarded amount is recovered by respondent, by filing execution application then, nothing will survive in the civil

application. She submits that, she received instructions from her client that, they are ready and willing to deposit entire amount with interest in the Tribunal within three weeks from today. She submits that they have good chance of success . She submits that the company is not liable to pay any compensation because respondent has placed on record fake Insurance policy and same is relied by the Motor Accident Claim Tribunal at the time of awarding compensation.

4. In the present proceeding, in an accident which occurred on 9.9.2011, the respondent/original claimant sustained multiple injuries as follows;

- i) Posterior dislocation hip with posterior wall fracture acetabulum right side.
- ii) Tibia fracture right side.
- Iii) knee injury with hammarthosis.

5. Considering the submissions made by the learned counsel for applicant, averments made in application and as there is delay on the part of Insurance company to file the first appeal, I am of the opinion that respondents can be permitted to withdraw 15% compensation amount without furnishing any security.

5. Hence, the following order.

A) Civil Application is allowed in terms of prayer

clause (a) which is reproduced as below on condition that, the applicant/Insurance Company to deposit entire awarded amount with interest in the Tribunal on or before 12.7.2019 failing which the civil application shall stand dismissed without referring back to the court. Prayer clause 'a' reads thus :-

“(a) Pending the hearing and final disposal of the present first appeal, this Hon'ble Court be pleased to stay the effect, implementation and or execution of the impugned Judgment and order dated 12.7.2018 passed by the Hon'ble Court of Member in Motor Accident Claim Petition No.202/2012.”

B) If the amount is deposited within stipulated time, respondent/claimant Mr.Ananda Shamrao Patil is entitled to withdraw 15% amount with interest without furnishing any security, but subject to outcome of first appeal.

C) The Tribunal is directed to invest the remaining amount in Fixed Deposit of any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

D) Liberty granted to respondent/claimant, if they so desire, to prefer appropriate application

for withdrawal of further amount and that application to be decided on its own merits.

E) Civil application disposed of accordingly.

F) No order as to cost.

(K.K.TATED, J.)

