

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2394/2019

in

First Appeal No.897/2019

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. Amol Gatane for the Applicant

CORAM : K.K.TATED, J.

DATED : JULY 9, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 By this Civil Application, the Applicant Insurance Co. is seeking stay to the operation and implementation of the judgment and award dated 30.10.2018 passed by the MACT Satara in MACP No.214/2011 holding that the Respondent-Claimants are entitled to sum of Rs.5,76,250/- by way of compensation with interest @ 7.5% p.a.

3 The learned counsel for the Applicant submits that in the present proceedings the Tribunal has failed to

consider the fact that the deceased was traveling in the goods vehicle and therefore, the Insurance Co. is not liable to pay compensation. He submits that they have good chance of success in the matter. He submits that if the entire amount is recovered by the claimants by filing Execution Application then nothing will survive in the present proceedings. He submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award. He submits that if stay is not granted irreparable loss will be caused to them.

4 In the present proceedings in an accident which occurred on 22.08.2009 the claimant No.1 lost her husband. At the time of accident, he was 40 years old and was earning near about Rs.5000/- pm. On the basis of the income of the deceased, the Tribunal held that the claimants are entitled to sum of Rs.5,76,250/- with interest. Claimant Nos.2 to 5 are minor.

5 Considering the fact that claimant No.1 is a widow and housewife and she

has to maintain her children, I am of the opinion that claimant No.1 can be permitted to withdraw some amount during pendency of the First Appeal.

6 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 09.08.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(A) Your Lordship be pleased to stay the execution, operation and implementation of the impugned judgment and order / award dated 30.10.2018, passed by the Member, MACT Satara, Dist. Satara in MACP No.214/2011 u/s.166 M.V.Act 1988 till hearing and final disposal of the First Appeal, as against the Applicant.

b. If awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-Claimant Neela Dattu Jadhav is entitled to withdraw sum of Rs.1 lac with accrued interest without furnishing any security

but subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the remaining 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.

d. 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

e. The Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K.TATED, J.)