

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1659 OF 2019
IN
FIRST APPEAL No. 542 OF 2019

Raju M. Shirguppe ...Applicant
Vs.
Madhukar Bhau Kore and Ors. ...Respondents

Mr. J.J. Bardeskar for the Applicant

CORAM: K.K. TATED, J.

DATED : JUNE 19, 2019

P.C. :

1. Heard learned counsel Mr. J.J. Bardeskar for the Applicant.
2. By this civil application, the Applicant is seeking stay of the impugned judgment and award dated 28th November, 2018 passed by the Motor Accident Claim Tribunal, Kolhapur in MACP No. 195 of 2015, holding that the Respondents – Original Claimants are entitled sum of Rs. 7,35,904/- by way of compensation with interest @ 7% p.a.
3. Learned counsel for the Applicant submits that they have good chance of success in the present proceedings. He submits that at the time of calculating the additional compensation payable to the Original Claimants, the Tribunal failed to deduct sum of Rs.5,00,000/- which was received to the legal heirs of the deceased from Birla Sunlife Insurance under policy term life insurance.
4. Learned counsel for the Applicant submits that if the entire amount is recovered by the Respondents- Claimants by filing execution

application, then nothing will survive in the First Appeal. He submits that pending the hearing and final disposal of the First Appeal, the operation and implementation of the impugned judgment and award dated 28th November, 2018 passed by the Tribunal in MACP No. 195 of 2015 be stayed. He submits that if the stay is not granted, irreparable loss would be caused to the Applicant.

5. It is to be noted that in the present proceedings, the Respondents – Original Claimants lost his son in accident, which occurred on 31st January, 2015. At the time of accident, the deceased was 30 years' old. He was working as a Sales Officer with Ratnakar Bank Ltd. and he was getting salary to the tune of Rs.15,250/-. Considering the fact that both the Claimants are senior citizens and the parents of the deceased, I am of the opinion that they may be permitted to withdraw some amount, without furnishing any security during pendency of the First Appeal.

6. Hence, following order is passed:

- (a) Civil Application is allowed in terms of prayer clause (a), on a condition that the Applicant Insurance Company to deposit entire awarded amount in Tribunal on or before 31st August, 2019, failing which, Civil Application shall stand dismissed without referring back to the Court. Prayer clause (a), which reads thus:
“(a) Pending the hearing and final disposal of the aforesaid First Appeal, this Hon'ble Court may be pleased to stay the further proceedings, execution, operation and implementation of the Judgment and Award dated 28/11/2018 passed in MACT Petition No.195 of 2015 passed by the Hon'ble MACT Tribunal, Kolhapur.
- (b) If entire amount is deposited within stipulated time as stated

hereinabove, both the Claimants are entitled to withdraw 25% each awarded amount of compensation with interest, without furnishing any security, but, subject to outcome of the First Appeal.

- (c) Tribunal is directed to invest the remaining amount in fixed deposit of any Nationalized Bank, initially, for a period of one year and same to be continued till further orders.
- (d) Liberty granted to the Respondents Claimants, 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 stands disposed of accordingly.
- (f) No order as to costs.

(K. K. TATED, J.)