

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1212/2019
IN
FIRST APPEAL (STAMP)NO.8597/2019

HDFC Irigo General Insurance Co. ... Applicant.
Vs.
Sunil J. Kulye & Ors. ... Respondents.

Mr. A.P. Kulkarni, advocate for applicant.
Mr.V.J. Takalkar, advocate for respondent no.2.

CORAM : K.K.TATED, J.
DATED : JUNE 21, 2019.

P.C.

Heard learned counsel for the parties.

2. By this civil application, applicant/Insurance Company is seeking stay of operation and implementation of judgment and award dated 18.8.2018 passed by Motor Accident Claim Tribunal, Ratnagiri in MACP No.63/2014 holding that the respondent/claimant is entitled sum of Rs.15,00,000/- by way of compensation with interest at the rate of 6% p.a.

3. The learned counsel for applicant submits that respondent/claimants filed Darkhast No.2/2019 for recovery of entire amount. In that Darkhast application, the trial

court is going to issue attachment warrant. Hence, there is urgency. He submits that he received instructions from his client that they are ready to deposit the entire amount with interest in the Tribunal within 3 weeks from today. He submits that in the interest of justice, operation and implementation of impugned judgment and award be stayed till hearing and final disposal of first appeal.

3. It is to be noted that, in an accident which occurred on 23.9.2013, respondent/claimant sustained fracture to his right hand and right thigh, and also operated for the same. Thereafter he was discharged from the Hospital on 11.10.2013. Respondent/claimant was doing marketing job with a Pan Card Club and was earning Rs.18,000/- p.m. Hence, he filed claim petition u/s 166 of Motor Vehicle Act for compensation. Claimant examined Dr.Sahastrabuddhe, in support of his contention. The said doctor issued disability certificate at Exh.75.

4. Learned advocate for applicant submits that, at the time of filing first appeal, they deposited sum of Rs.25,000/- in the Registry. Said amount be transferred to Motor Accident Claim Tribunal, Ratnagiri alongwith accrued interest.

5. Considering these facts I am of the opinion that the claimants can be permitted to withdraw sum of Rs.5,00,000/- without furnishing any security but subject to outcome of first appeal.

6. Hence, the following order.

A) Civil application is allowed in terms of prayer clause (a) which is reproduced as below, with condition that, applicant/Company to deposit entire awarded amount with interest in the Tribunal on or before 12.7.2019 failing which civil application shall stand dismissed without referring back to the Court.

“a) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned judgment and award dated 18.8.2018 passed by the Motor Accident Claim Tribunal, Ratnagiri in M.A.C.P.63/2014 and disbursal of amount there under, be kindly stayed.”

B) If the amount is deposited within stipulated time, respondent/claimant Sunil Janu Kulye is permitted to withdraw sum of Rs.5,00,000/- (Rupees Five Lakhs only) with accrued interest without furnishing any security but subject to outcome of first appeal.

C) The Tribunal is directed to invest remaining amount, in a 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 if he so desire, to prefer appropriate application for withdrawal of further amount and that application to be decided on its own merits.

E)Registry is directed to transfer sum of Rs.25,000/- deposited by applicant/Company at the time of filing first appeal alongwith accrued interest if any, to Motor Accident Claim Tribunal, Ratnagiri in the account of Motor Accident Claim Petition No.63/2014.

(K.K.TATED, J.)

