

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2331/2019

in

First Appeal (ST) No.9301/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mrs. Ayodhya Patki ib. Nitesh V. Bhutekar for the Applicant	

CORAM : K.K.TATED, J.

DATED : JULY 4, 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 is seeking stay to the operation and implementation of the judgment and award dated 27.04.2018 passed by the MACT Satara in MACP No.249/2017 holding that the Respondent-Claimants are entitled to compensation of Rs.18,64,400/- with interest @ 7.5% p.a.

3 The learned counsel for the Applicant submits that they have already deposited the entire awarded amount with interest in the Tribunal.

She submits that the Respondent-Claimant has filed Execution Application for recovery of the amount. She submits that if the entire amount is recovered by the claimants in Execution Application, then nothing will survive in the present proceedings. She submits that they have good chance of success in the matter.

4 The learned counsel for the Applicant submits that at the time of accident, the claimant was 61 years old. She submits that the Respondent-Claimant has failed to place on record any documentary proof to show his income about Rs.15,000/- to Rs.20000/- pm and in spite of that without any proof the Tribunal has considered his monthly income of Rs.9600/-. She submits that the Tribunal has awarded the compensation on higher side.

5 The learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award till hearing and final disposal of the First Appeal.

6 It is to be noted that in the present

proceedings in an accident which occurred on 17.11.2016 the claimant sustained injuries including crush injury on right leg, because of which he was hospitalized in B.K.L. Walawalkar Hospital Diagnostic and Research Center, Dervan from 17.11.2016 to 03.12.2016. Thereafter the Respondent-Claimant was shifted to Bombay Hospital and was admitted from 03.12.2016 to 24.12.2016. Because of this accident he sustained 80% permanent disability. Therefore, the Respondent-Claimant had filed an application u/s.166 of the Motor Vehicles Act, 1988 for compensation.

7 Considering the fact that the Respondent-Claimant sustained 80% permanent disability, I am of the opinion that the Respondent-Claimant can be permitted to withdraw some amount without furnishing any security, subject to outcome of the First Appeal, as there is delay on the part of the Applicant to file the First Appeal.

8 Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 27.04.2018 passed by the MACT

Satara in MACP No.249/2017 is stayed till hearing and final disposal of the First Appeal.

b. The Respondent Suresh Mahadev Sakpal is permitted to withdraw 30% of the awarded amount with accrued interest without furnishing any security, 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.)