

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3025/2019

in

First Appeal (ST) No.9413/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr. P. A. Narayan for the Applicant

CORAM: K.K.TATED, J.

DATED : SEPTEMBER 6, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 04.06.2018 passed by the MACT, Gadhinglaj in MACP No.41/2013 holding that the Respondent-Claimants are entitled to sum of Rs.2,30,000/- towards compensation with interest @ 9% p.a.

2 The learned counsel for the Applicant submits that they are challenging the judgment and award dated 04.06.2018 on the ground of non joinder of necessary party. He submits that the Respondent-Claimant has failed to join the owner of the offending vehicle as well as the Insurance Co. He submits that they have good chance of success in

the matter. He submits that even the claimant has failed to place on record any documentary evidence to show that he was getting sum of Rs.3200/- p.m. salary by doing agricultural work. Hence, the compensation awarded by the Tribunal is on higher side.

3 The learned counsel for the Applicant submits that, if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. Hence, 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 he received instructions from their client that they are ready and willing to deposit the entire awarded amount along with accrued interest, if any, in the Tribunal within four weeks from today. The statement is accepted.

4 It is to be noted that in an accident which occurred on 26.05.2010 the claimant sustained several injuries. Hence, he was admitted in the hospital from 26.05.2010 to 05.06.2010. On the

date of accident he was 26 years old. He was doing agricultural work and was getting Rs.3200/- p.m. Hence, the claimant had made an application u/s.166 of the Motor Vehicles Act, 1988 for compensation of Rs.2,30,000/-. Considering these facts, I am satisfied that the Respondent-Claimant can be permitted to withdraw some amount during pendency of the First Appeal.

5 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 05.10.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) Pending the hearing and final disposal of the appeal this Hon'ble Court be pleased to stay the operation of the impugned judgment and award dated 04.06.2018 passed by the Hon'ble Member, MACT Gadhinglaj partly allowing the claim petition bearing NO.41/2013 and directing this Applicant herein to the total amount of Rs.2,30,000/- (Rupees Two Lakhs Thirty Thousand only) with interest at the rate of 9% p.a.

*from the date of the application till
realisation of the entire amount.”*

b. If the amount is deposited within stipulated time as stated hereinabove the Respondent-Claimant Prakash Baburao Magdum is entitled to withdraw 50% of the same 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.)