

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2803 OF 2017
IN
FIRST APPEAL NO. 1017 OF 2017

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. Nikhil Mehta I/b KMC Legal Venture for the Applicant.

CORAM: K.K.TATED, J.
DATED : 17/10/2019

P.C.

1 Not on board. At the request of learned Counsel for the Applicant, matter is taken on board for urgent orders.

2 The learned Counsel for the Applicant submits that he received email from his client that Respondent has filed execution application recently. Hence, there is an urgency in the present matter.

3 By this Civil Application, the Applicants are seeking stay of the operation and implementation of the Judgment and Award 23.08.2016 passed by MACT, Karad in MACP No. 37 of 2013 holding that the Respondents original Claimants are entitled to a sum of Rs.8,80,000/- by way of

compensation with interest @ 8 % p.a.

4 The learned Counsel for the Applicant submits that Tribunal failed to appreciate the fact that driver of the offending vehicle was not holding valid licence at the time of accident. Hence, though there was breach of terms and conditions of insurance policy, Tribunal held that Insurance Company is liable to pay compensation. Hence, Insurance Company is not liable to pay compensation. The learned Counsel for the Applicant submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal.

5 The learned Counsel for the Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest within three weeks from today.

6 The learned Counsel for the Applicant submits that the sum of Rs.25,000/- deposited by them at the time of filing the

First Appeal be transferred to the Tribunal.

7 In the present proceeding, in the accident which occurred on 09.08.2012 the original Claimant no.1 lost his wife and Claimant No.2 her mother. At that time, the deceased was working as labourer and getting salary of Rs.4,000/- per month. Hence, they filed application under Section 166 of the M.V. act claiming compensation of Rs.17,80,000/- with interest.

8 Considering the fact that Claimant No.1 lost his wife and Claimant No.2 her mother, I am of the opinion that they can be permitted to withdraw some amount during the pendency of present First Appeal.

9 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (A) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 16.11.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (A), reads thus:

“A) That this Hon'ble Court be pleased to stay the effect and implementation of the Judgment and Award dated 23.08.2016 passed in M.A.C.T. Application No. 37 of 2013 by Shri. C.P. Gaddam, Dist. Satara.”

b) If amount is deposited within

stipulated time, Respondent No.1 original Claimant No.1 Shri. Nana Bhalagu Jadhav is entitled to withdraw sum of Rs.1,50,000/- 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 fixed deposit of any Nationalised Bank, initially for a period of one year and same to be continued till further order.

d) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

e) The Registry is directed to transfer a sum of Rs.25,000/- deposited by the Applicant at the time of filing of First Appeal along with accrued interest, if any, to the MACT, Karad in account of Application No. 37 of 2013, immediately.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K.K.TATED, J.)