

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.91/2019

in

First Appeal No.26/2019

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. P. N. Narayan for the Applicant

CORAM : K.K.TATED, J.

DATED : JULY 25, 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 30.01.2018 passed by the MACT Barshi in MACP No.46/2016 holding that the Respondent-Claimants are entitled to sum of Rs.13,55,200/- with interest @ 8% p.a.

3 The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application. Hence, there is urgency.

4 The learned counsel for the Applicant submits that while passing the impugned judgment and award the Tribunal has failed to consider the fact that the offending vehicle was not involved in the accident and therefore, the Insurance Co. is not liable to pay compensation. He submits that the tribunal has awarded the compensation on higher side. He submits that they have good chance of success in the matter. He submits that if the entire amount is recovered by the claimants then nothing will survive in the present proceedings. The learned counsel for the Applicant submits that he received instructions from their client that they are ready and willing to deposit the entire awarded amount in the Tribunal on or before 16.08.2019. The statement is accepted.

5 It is to be noted that in the accident which occurred on 31.12.2014 the claimant No.1 lost her husband who was 28 years old and was earning Rs.9000/- pm and claimant Nos.2 and 3 are minor children. Claimant Nos.4 and 5 are parents of the deceased. Considering the

fact that the claimant No.1 lost her husband and she has to maintain her two minor children and claimant Nos.4 and 5 being senior citizen I am of the opinion that the claimants can be permitted to withdraw some amount.

6 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 16.08.2019 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 and impugned judgment and award dated 30.01.2018 passed by the Hon’ble Member, MACT, Barshi partly allowing the Claim petition bearing No.46 of 2016 and directing this Applicant and the Respondent No.6 herein to pay jointly and severally the total amount of Rs.13,55,200/- (Rupees thirteen Lakhs Fifty Five Thousand Two Hundred only) with interest at the rate of 8% p.a. from the date of the application till realisation of the entire amount.”

b. Claimant No.1 Vijaylaxmi Khandu Patil is permitted to withdraw sum of Rs.2 lacs with accrued interest, Claimant No.4 Mangalbai Ashok Patil and Claimant No.5 Ashok Handu Patil are permitted to withdraw Rs.75,000/- 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 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.)