

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.166/2019

in

First Appeal No.43/2019

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. A. Narayanan for the Appellant

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.47/2016 holding that the Respondent-Claimants are entitled to compensation of Rs. 6,95,400/- with 8% p.a. interest.

3 The learned counsel for the Applicant submits that the Respondent-Claimants have filed Execution Application wherein

the executing court has issued attachment warrant. He submits that if the entire amount is recovered by the claimants then nothing will survive in the present proceedings.

4 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 In an accident which occurred on 31.12.2014 Akash Changdev Godge expired. Hence, the Respondent-Claimant filed claim application u/s.166 of the Motor Vehicles Act, 1988 for compensation of Rs.10,00,000/-. The Trial Court, after considering the evidence on record and income of the deceased in the sum of Rs.7500/- pm held that the claimants are entitled to sum of Rs.6,95,400/- by way of compensation.

6 As the claimants lost their son and both of them are labourers, I am of the opinion that they can be permitted to

withdraw some amount during pendency of the First Appeal.

7 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 20.08.2019, 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.47 of 2016 and directing this Applicant and the Respondent No.3 herein to pay jointly and severally the total amount of Rs.6,95,400/- (Rupees Six Lacs Ninety Five Thousand Four Hundred only) with interest at the rate of 8% 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, claimant No.1 Changdev Arjun Godge

and claimant No.2 Kalavati Changdev Godge are permitted to withdraw 25% each 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. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)