

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3226/2019
in
First Appeal (ST) No.22784/2019

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

Court's or Judge's orders.

Mr. Amit Gharte for the Applicant

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 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 14.03.2019 passed by the MACT Solapur in MACP No.4/2015 holding that Respondent-Claimants are entitled to sum of Rs.7,23,635/- by way of compensation including NFL with interest @ 9% p.a. from the date of filing the petition till realisation.

3 The learned counsel for the Applicant submits that at the time of awarding the compensation to the tune of Rs.7,23,635/- the Tribunal has failed to consider the contributory negligence. He submits that though the Tribunal held that the driver of the offending vehicle i.e. car was also negligent, the Tribunal has directed the Applicant to pay the entire awarded amount. He submits that they have good chance of success in the matter.

4 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application for recovery of the entire amount. He submits that the next date before the executing court is 18.10.2019. He submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings.

5 The learned counsel for the Applicant submits that 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 if stay is not granted, irreparable loss will be caused to them.

6 It is to be noted that in the present proceedings in an accident which occurred on 24.11.2013 the Respondent-Claimant sustained several injuries because of that the Respondent-Claimant was admitted to Gramin Rugnalaya, Dahivadi. Thereafter shifted to Satara Rugnalaya, where she has taken treatment as indoor patient and also got operated. She has spent Rs.15 lacs for medical treatment including hospital charges, medicines etc. At that time the Respondent-Claimant was doing entire household work. Not only that she was also working as a Nurse in private hospital and getting salary of Rs.9000/-pm.

7 Considering these facts and as there is delay in filing the First Appeal on the part of the Appellant, I am of the opinion that the Applicant can be permitted to withdraw 50% of the awarded amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

8 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 15.10.2019, failing which the 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 implementation, operation and execution of the impugned judgment dated 14.03.2019 and award dated 01.04.2019 passed in MACP No.4 of 2015 by Ld. MACT, Solapur.”

b. If amount is deposited within stipulated time as stated hereinabove claimant Anita @ Supriya Sachin Mehtre is entitled to withdraw 50% of the amount 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.)