

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3585 OF 2018
IN
FIRST APPEAL (ST) NO. 16503 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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Ms. Shalini Shankar for the Applicant.

CORAM: K.K.TATED, J.
DATED : 23/09/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicants are seeking stay of the operation and implementation of the Judgment and Award dated 18.11.2016 passed by MACT, Solapur in MACP No. 146 of 2015.

3 The learned Counsel for the Applicant submits that mainly they are challenging the impugned Judgment and Award on quantum basis. She submits that the Tribunal erred in coming to the conclusion that Insurance Company is liable to pay compensation. She submits that they have good chance of success in the present matter. She submits

that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal. She 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.

4 The learned Counsel for the Applicant submits that they have already deposited the entire awarded amount in the Tribunal.

5 It is to be noted that in the present proceeding, the accident occurred on 21.03.2015. The Claimant No.1 lost her husband. Hence, the widow and the father of the deceased filed application under Section 166 of M.V.Act, 1988 for compensation of Rs.25 lakhs. On the date of accident, the deceased was 28 years old.

6 Considering this fact, I am of the opinion that the Claimants can be permitted to withdraw some amount during the pendency of the First Appeal.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a), which reads thus:

“a) Pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be pleased to stay the effect, implementation and or execution of the impugned Judgment

and Order dated 18/11/2016 passed by the Hon'ble Court of Member in Motor Accident Claim Petition No. 146/2015”.

b) Respondents Claimants are permitted to withdraw 50% amount as per their share 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.

d) Civil Application stands disposed of accordingly.

e) No order as to costs.

(K.K.TATED, J.)