

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL APPLICATION NO.1110 OF 2019
in
FIRST APPEAL (St) NO. 31809 of 2018**

Reliance General Insurance Co Ltd .. Applicant
vs
Anushka Pradip Mestri & ors ..Respondents

Ms.Poonam Mittal for Applicant

CORAM : K.K.TATED, J
DATE : 25th MARCH, 2019

P.C

Heard learned counsel for the parties.

2. By this Civil Application, the applicant is seeking stay of the operation and implementation of the judgment and award dated 8.11.2017 passed by the MACT Ratnagiri in MACP Application No.48 of 2015 holding that the respondent/claimants are entitled to a sum of Rs.15,40,000/- by way of compensaiton with interest at 6% p.a.

3. Learned counsel for the applicant submits that the respondents/claimants filed Execution Application for recovery of the entire amount. She submits that if the entire amount is recovered by the respondents/claimants, then nothing will survive in the present

proceedings. She submits that she has received instructions from her clients that, they are ready and willing to deposit the entire amount with interest in the tribunal within four weeks from today.

4. Learned counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to allow the present Civil Application.

5. In the present proceedings on 24.4.2012 the claimant no.3 Smt Aditi Pradip Mestri lost her husband in the accident. Claimant nos.1 and 2 are minors and claimant no.4 is mother of the deceased. There is delay of 263 days in filing the First Appeal. Not only that the claimants have filed Execution Application, in which a warrant of attachment is already issued by the executing Court. Considering these facts, I am of the opinion that the respondents/claimants are entitled to withdraw some amount during the pendency of the present First Appeal. Hence, following order :

O R D E R

(i) The operation and implementation of the impugned judgment and award dated 8.11.2017 is stayed during the pendency of the present First Appeal on a condition that the Applicant to deposit the entire awarded amount with accrued interest if any, on or before 23.4.2019 in the Tribunal failing which the Civil

Application shall stand dismissed without further reference to the Court.

(ii) If the amount is deposited as stated hereinabove, claimant no.3 Smt Aditi Pradip Mestri is entitled to withdraw 15% of the total compensation without furnishing any security but, subject to the outcome of the First Appeal.

(iii) Claimant no.4 Mrs. Nirmala Gangarama Mestri is entitled to 10% of the total compensation without furnishing any security but, subject to the outcome of the First Appeal.

(iv) The Tribunal is directed to invest the remaining amount in fixed deposit initially for a period of one year and the same be continued till further orders.

(v) Liberty is granted to the respondents/claimants to prefer an appropriate application for withdrawing the remaining amount which will be decided on its own merits.

Civil Application stands disposed of accordingly.

{K.K.TATED, J}