

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2534/2017
IN
FIRST APPEAL NO.851/2017

Vilas T. Suryawanshi
(through LR's)

.... Applicants.

Vs.

Sonabai B. Shinde

... Respondent

Advocate Mr. Rahul Khot h/g Nagesh Chavan for applicant.

CORAM : K.K.TATED, J.

DATED : 27/6/2019.

P.C.

Heard learned counsel Mr.Rahul Khot for applicant.

2. By this civil application, the applicants are seeking stay of judgment and award dated 6.10.2016 passed by Motor Accident Claim Tribunal ,Sangli in Motor Accident Claim Petition No.141/2010,holding that, respondents/claimants are entitled sum of Rs.1,45,000/- by way of compensation with 8% interest p.a.

3. Learned counsel for applicaint submits that the accident occurred because of mistake on the part of the

deceased. Therefore, there is no question of paying any compensation to the respondents/claimants.

4. Learned counsel for the applicants submits that on the day of accident, deceased was 65 years old. He was not doing any work. These facts were admitted by claimant in her cross-examination. On the basis of these facts, he submits that during the pendency of first appeal, operation and implementation of impugned judgment and award be stayed. He submits that if stay is not granted irreparable loss will be caused to applicants.

5. Heard both sides at length. It is to be noted that in an accident which occurred on 27.1.2010, claimant no.1 lost her husband Balu Bhairu Shinde. On the day of accident, he was 65 years. Immediately after accident, the deceased was admitted in the Hospital. Claimants/respondents has spent near about Rs.25,000/- on medical expenses. Apart from that at the time of fixing of compensation, the trial court has not considered the income of the deceased. Considering these facts, I am of the opinion that at least Claimant No.1 Smt. Sonabai Balu Shinde is entitled to withdraw some amount without furnishing any security.

6. Hence the following order.

A) Civil Application is allowed in terms of prayer clause (a) which is reproduced as below, on condition that applicant to deposit the entire awarded amount with interest in the Tribunal on or before 31.7.2019 failing which civil application shall stand dismissed without referring back to the court.

“(a)Pending the hearing and final disposal of first appeal this Court may pleased to stay the execution, operation and implementation of impugned Judgment and Award dated 6.10.2016 passed by M.A.C.T. Sangli, in M.A.C.P. No.141/2010.”

B) If amount is deposited within stipulated time as stated hereinabove, the respondent/claimant no.1 Smt. Sonabai Balu Shinde is entitled to withdraw 50% amount with accrued interest without furnishing any security but subject to outcome of first appeal.

C) The Tribunal is directed to invest remaining amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

D) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for withdrawal of further amount and that application will be decided on its

own merits.

E) Civil application stands disposed of.

(K.K.TATED, J.)

