

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1597/2019
in
First Appeal (ST) No.35249/2018

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

Court's or Judge's orders.

Ms. Aarti Taware I/b. Milind V. More for
the Applicant

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 6, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 03.02.2018 passed by the MACT, Karad in MACP No.184/2011 holding that the Respondent-Claimant is entitled to sum of Rs.4,62,000/- by way of compensation with interest @ 6% p.a.

2 The learned counsel for the Applicant has made a statement before this court that they have already deposited entire awarded amount with interest in the Tribunal. The statement is accepted.

3 The learned counsel for the Applicant submits that the cheque issued by the owner of the offending vehicle towards the premium of the insurance policy was dishonoured, therefore, there is no question of any liability of the Insurance Co. She submits that these facts were not considered by the Tribunal properly.

4 The learned counsel for the Applicant submits that they have good chance of success in the matter. She submits that if the entire amount is withdrawn by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. She 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. She submits that if stay is not granted irreparable loss will be caused to them.

5 It is to be noted that in the present proceedings in an accident which occurred on 03.05.2011 the Respondent-Claimant lost her son Aakash Laxman

Kharade, Aged 17 years. Hence, the Respondent-Claimant had made an application u/s.166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.5 lacs with interest.

6 Considering the fact that the Respondent-Claimant lost her son, I am of the opinion that the Applicant can be permitted to withdraw some amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

7 Hence, following order is passed:

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

“(a) To stay the execution of the judgment and award dated 03.02.2018 passed by the Learned member, MACT, Karad, Satara in MACP No.184/2011.”

b. The Respondent claimant Savita Laxman Kharade is permitted to withdraw 25% of the total compensation 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.)