

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION (STAMP)NO.36832/2018
IN
FIRST APPEAL (ST)NO.36827/2018

M.S.R.T.C. through Divisional Officer ...Applicant.

V/s.

Dharmu Mhalhari Katkar & Ors. ... Respondents

Mrs.Ayodhya Patki, advocate i/b N.V. Bhutekar for the applicant.

CORAM: K.K. TATED, J.

DATED : JUNE 27, 2019

P.C. :

Not on board. At the request of learned advocate for applicant by preceipe dated 27.6.2019 matter is taken on production board.

2. Learned counsel for applicant submits that, by this civil application, applicants are seeking stay of operation and implementation of judgment and award dated 31.3.2018 passed by Motor Accident Claim Triunal Satara in MACP no.10/2014 holding that, respondents are entitled sum of Rs.6,27,700/- by way of compensation with interest @ 6% p.a.

3. Learned counsel for applicant submit that, the trial court erred in coming to conclusion that, respondent is entitled sum of Rs.6,27,000/- with interest @ 6% p.a.by way of compensation. The Tribunal has granted compensation on

higher side on the basis of documents placed on record, though those documents were not proved by respondent/claimants. They already deposited entire amount in tribunal alongwith interest. He submits that if entire amount is withdrawn by respondent, then nothing will survive in the present proceeding. He submits that, in the interest of justice this court be pleased to stay the operation and implementation of judgment and award dated 31.3.2018 passed by Motor Accident Claim Tribunal, Satara, in M.A.C.P. No.10/2014. She submits that the if entire amount is withdrawn by respondent then it will be very difficult for them to recover said amount from respondents/claimants.

4. It is to be noted that in the present proceeding in an accident, which occurred on 30.07.2013, respondent no.1 lost his wife. On the date of incident she was working at 'Taj Kirana Merchant, at Bhore, Pune, earning Rs.6500/- p.m. Hence, claimants filed claim application u/s 166 of Motor Vehicle Act, claiming sum of Rs.14,30,000/- by way of compensation with interest from applicant. In view of this fact, I am of the opinion that claimant no.1 husband of the deceased can be permitted to withdraw some amount during pendency of first appeal.

5. Hence, the following order.

a) Operation and implementation of the impugned judgment and award dated 31.3.2018 passed by

Motor Accident Claim Tribunal, Satara in M.A.C.P. No.10/2014 is stayed till hearing and final disposal of first appeal.

b)Original claimant no.1 Dharmu Malhari Katkar is entitled to withdraw 30% amount of compensation 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 of 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) No order as to cost.

(K. K. TATED, J.)