

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2077/2019
in
FIRST APPEAL STAMP NO.37287/2018

M.S.R.T.C. Satara ... Applicant.
V/s.
Kusum M. Bandal & Ors. ... Respondents

Mrs.Ayodhya Patki, advocate I/b NV Bhutekar for the applicant.

CORAM: K.K. TATED, J.
DATED : JUNE 27, 2019.

P.C. :

Not on board. As per preceipe dated 27.6.2019 filed by learned advocate matter is taken on production board for urgent orders.

2. Learned counsel for applicant submits that by this civil application they are seeking stay of operation and implementation of impugned judgment and award dated 2.4.2018 passed by Motor Accident Claim Tribunal, Satara, in claim petition no.11/2014 holding that respondents/claimants are entitled sum of Rs.8,47,000/- by way of compensation with interest @ 6% p.a.

3. Learned counsel for applicant submits that they already deposited entire amount in the Tribunal Satara. She submits that if the entire amount is withdrawn by the respondent by

filing execution application, then nothing survives in present proceeding. Hence, there is urgency.

4. Learned counsel for applicant submits that the Tribunal erred in coming to conclusion that the respondents/claimants are entitled sum of Rs.8,47,000/- by way of compensation with interest @ 6% p.a. She submits that at the time of accident deceased was 65 years old. The trial court failed to consider contributing negligency at the time of fixing compensation to respondents/claimants. She submits that they have good chance of success in the present proceeding. She submits that during pendency of first appeal, operation and implementation of impugned order be stayed. She submits that if stay is not granted, irreparable loss would be caused.

5. Heard learned counsel for the applicant. It is to be noted that in the present proceeding in an accident which occurred on 30.07.2013 claimant no.1 lost her husband Mahadev J. Bandal, who was 65 years old. At that time he was drawing monthly pension of Rs.11000/-. Mahadev was also working at Sai Motors as a Marketing Executive and was earning monthly salary of Rs.7500/-. The deceased had 4 acres of land which he used to cultivate the same working on holidays and some times with the help of labours and accordingly, used to earn annual income to the extent of Rs.1 lakh. Respondent/claimants filed claim application u/s 166 of Motor Accident Act for compensation of Rs. 23,30,000/- with

interest. After considering evidence on record, the Tribunal awarded compensation of Rs.8,47,000/- to claimant no.1 Mrs.Kusum Mahadev Bandal. Considering the reasons given by the trial court as well as age of claimant no.1 who lost her husband, I am of the opinion that claimant no.1 can be permitted to withdraw the amount without furnishing security but subject to outcome of appeal.

6. Hence, the following order.

A) Civil application is allowed in terms of prayer clause (a) which reads thus;

a)Be pleased to stay the effect, implementation and execution of the said impugned judgment and award dated 2.4.2018 in the MACP no.11/2014 passed by the Learned M.A.C.T.Satara.

B)Respondent/claimant no.1 Mrs.Kusum Mahadev Bandal is permitted to withdraw Rs.25,000/- with accrued interest, without furnishing any security, but subject to outcome of the appeal.

C) 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 respondent/claimant, if they so desire to prefer appropriate application for withdrawing amount, and that application be decided on its own merits.

E)civil application is disposed of accordingly.

(K. K. TATED, J.)