

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION No. 1644 of 2019
IN
FIRST APPEAL NO. 480 of 19

National Insurance Company Ltd. Applicant.

Vs.

Juned Najir Beg & Ors. Respondents

Ms Harshada Manohar Rane for the Appellant.
None for Respondents

CORAM : K.K.TATED, J.
DATED : JUNE 12, 2019

P.C.

1. Heard learned counsel for the Applicant.
2. By this Civil Application Applicant/Original Insurance Company is seeking stay to the operation and implementation of judgment and award dated 6th April, 2018 passed by the Motor Accident Claims Tribunal, Pune in Motor Accident Claim Petition No. 569 of 2011.
3. The learned counsel for the Applicant submits that if entire amount is recovered by the Respondents/Original Claimants by filing execution application then nothing will survive in the present proceeding. She further submits that the Tribunal has erred in coming to the conclusion that the Respondents/Claimants are entitled to the

compensation. She submits that they categorically brought on record that the Claimant himself was not travelling in the cabin of the truck. Therefore, there is no question of payment of any compensation to the Respondents.

4. The learned counsel for the Applicant submits that, pending hearing and final disposal of the present first appeal, the operation and implementation of impugned judgment be stayed, otherwise irreparable loss will cause to them. Learned counsel for the Applicant submits that, she received instructions from her client that they are ready and willing to deposit the entire awarded amount with interest in tribunal within 4 weeks from today. The statement is accepted.

5. It is to be noted that in the present proceedings, in an accident which occurred on 27th June, 2014 the Respondents/Original Claimants sustained injuries. Therefore, Respondents/Original Claimants filed an application for compensation of Rs. 10 lakhs. Considering the injuries sustained by the Respondents/Original Claimants, I am of the opinion that the Respondent is entitled to withdraw 25% amount, subject to outcome of the first appeal. Hence the following order.

a. The application allowed in terms of prayer clause(a) which is reproduced below on condition that Applicant to deposit the entire awarded amount in Tribunal on or before 12th July, 2019

failing which civil application shall stand dismissed without further reference to the court.

“(a) Pending the hearing and final disposal of the Appeal this Hon'ble Court be pleased to stay the operation of the impugned judgment and award dated 06-04-2018 passed by the Hon'ble Learned Additional Member, MACT, Pune allowing the Claim Petition No. 569 of 2014 and directing this Applicant herein to pay the total amount of Rs. 3,11,420/- (Rupees Three Lakhs Eleven Thousand Four hundred and Twenty only) with interest at the rate of 7% p.a. interest from the date of filing the Application till date realisation.”

- b. If the amount is deposited within stipulated time as stated hereinabove the Respondent/Original Claimant is entitled to withdraw 25% of the total compensation with interest without furnishing any security but subject to outcome of the first appeal.
- c. The Tribunal is directed to invest the remaining amount in fixed deposit of any Nationalized Bank, initially for a period of one year and same be continued till further orders.
- d. Liberty granted to the Respondents/Original Claimants if he so desire to prefer an appropriate application for withdrawal of the further amount, which shall be decided on its own merits.
- e. The Civil Application stands disposed accordingly.
- f. No order as to costs.

(K.K.TATED, J.)