

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1021/2019
in
First Appeal No. 274/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mrs. S. S. Dwivedi for the Applicant

CORAM : K.K.TATED, J.
DATED : MAY 3, 2019

P.C.

Heard. By this Civil Application, the Applicants are seeking stay to the operation and implementation of the judgment and award dated 29.06.2018 passed by the MACT, Mumbai in Application No.2185/2011 holding that the Respondent - claimants are entitled to sum of Rs.17,29,000/- by way of compensation with interest @ 7.5% p.a.

2 The learned counsel for the Applicant submits that the Respondent - claimants have filed Execution Application No.104/2019 for recovery of the entire amount. She submits that if the entire amount is recovered by the Respondent - claimant, nothing will survive in the

present proceedings. She submits that in the present proceedings the Tribunal has erred in coming to the conclusion that the Respondent - claimants are entitled to compensation to the tune of Rs.17,59,000/- plus interest. She submits that the compensation awarded by the Tribunal is on higher side. Hence, pending the hearing and final disposal of the first appeal, the operation and implementation of the judgment and award be stayed.

3 It is to be noted that in the present proceedings in an accident which occurred on 07.10.2011, the claimant No.1 lost her husband and claimant Nos.2 and 3 their father. On the date of accident, the claimant No.3 was minor. Considering the impugned judgment and award, I am of the opinion that the Respondent may be permitted to withdraw some amount pending the hearing and final disposal of the First Appeal.

4 Hence, the following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest in the Tribunal on or before

31.05.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) Pending the hearing and final disposa of this present appeal, the execution, operation of the judgment and award dated 29.06.2018 passed by the learned MACT Mumbai in MACP No.2185/2011 be stayed in the interest of justice.”

(b) The claimant Nos.1 to 3 are entitled to withdraw 15% each, from the awarded amount 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 of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.

(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) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)