

Tikam

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION No. 3392 OF 206
IN
FIRST APPEAL (ST) No.447 OF 2016

HDFC Ergo General Insurance Co. Ltd.	...Applicant
Vs.	
Mrs. Anita Atmaram Patil and Anr.	...Respondents

Mr. A.P. Kulkarni for Applicant	-----

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Heard learned counsel for the Applicant.
2. By this civil application, the Applicant Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 13th August, 2014 passed by the Motor Accident Claim Tribunal, Palghar in M.A.C.P. No. 52 of 2010 holding that the Respondents/ Claimants are entitled compensation of Rs. 1,70,000/- along with interest at the rate of 7% p.a. from the date of petition till realization of the entire amount.
3. Learned counsel for the Applicant submits that they have good chances of success in the present proceedings. He submits that if the entire amount is recovered by the Respondents in the execution proceedings, then nothing will survive in the present proceedings. He further submits that the Applicant – Insurance Company is ready and willing to deposit the entire awarded amount in the Tribunal on or before 17th May, 2019. He submits that pending the hearing and final disposal of the First Appeal, operation and implementation of the

impugned order may be stayed.

4. It is to be noted that in the present proceedings, Respondent No.1- Claimant who was working as a labourer and was earning Rs.4,500/- per month. The accident had occurred on 27th December, 2009. She sustained several injuries. After the accident, she was taken to Rural Hospital Manor, Dist. Palghar, but she was serious, and hence, the Claimant was shifted to K.E.M. Hospital, Mumbai. The Claimant had spent more than Rs.20,000/- on her medical treatment. Therefore, the Claimant has filed application under Section 166 of the Motor Vehicles Act, claiming the compensation of Rs.5,00,000/-. Considering the evidence on record, the Tribunal held that Respondent No.1/Claimant is entitled to get an amount of Rs.1,70,000/- by way of compensation.

5. Considering this fact, I am of the opinion that Respondent No.1/Claimant is required to be permitted to withdraw 50% amount of the compensation without furnishing any security.

6. Hence, following order:

ORDER

- (A) The operation and implementation of the judgment and award dated 13th August, 2014 passed by the Motor Accident Claim Tribunal, Palghar in M.A.C.P. No. 52 of 2010 is stayed during pendency of the present First Appeal on a condition that the Applicant to deposit the entire awarded amount in the Motor Accident Claim Tribunal, Palghar on or before 17th May, 2019, failing which the civil application shall stand dismissed without further reference to the Court.
- (B) If the amount is deposited within the stipulated time, Respondent No.1 /Claimant is entitled to withdraw 50% amount without furnishing any security, but subject to the outcome of the First

Appeal.

- (C) The Tribunal is directed to invest the remaining 50% amount in the fixed deposit of any nationalized bank initially, for a period of one year and to be continued till further orders.
- (D) The Registry is directed to transfer the sum of Rs.25,000/- deposited by the Applicant at the time of filing of the First Appeal including accrued interest thereon, if any, to the Motor Accident Claim Tribunal, Palghar in the account of M.A.C. No. 52 of 2010 immediately.
- (E) Civil application stands disposed off accordingly.

[K.K. TATED, J.]