

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4175 OF 2015
IN
FIRST APPEAL NO. 1333 OF 2015

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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Mr. D.S. Joshi for the Applicant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicants Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 21.08.2014 passed by the MACT, Pune in MACP No. 1114 of 2010 holding that Respondents Claimants are entitled to sum of Rs.15,62,000/- by way of compensation with interest @ 7.5 % p.a.

3 The learned Counsel for the Applicant submits that the Tribunal awarded compensation on higher side. He submits that by the First Appeal they are challenging

the quantum only. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survive in this First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal.

5 The learned Counsel for the Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest within four weeks from today.

6 It is to be noted that in the accident which occurred on 08.11.2010, the Claimant No.1 lost her husband and Claimant No. 4 lost her son. At that time, he was running a hotel. Considering the evidence on record, the Tribunal held that Respondents-Claimants are entitled to sum of Rs. 15,62,000/- by way of compensation with interest. Claimant No.1 has to look after her two minor children and mother-in-law, who is senior citizens.

7 Considering this fact, I am of the opinion that Claimant No.1 and Claimant No.4 can permit to withdraw some amount during the

pendency of First Appeal.

8 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 16.11.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a), reads thus:

“a) Pending the hearing and final disposal of the appeal, this Honourable Court by an order of stay, may kindly stay the operation, implementation and execution of the impugned Judgment and Award dated 21.08.2014 passed by the Motor Accident Claims Tribunal , Pune in MACP No. 1114 of 2010”.

b) Claimant No.1 Smt. Yogita Babaji Daundkar is entitled to withdraw sum of Rs.3,00,000/- with accrued interest without furnishing any security.

c) Claimant No.4 Smt. Sushila Swami Daundkar is entitled to withdraw sum of Rs.1,00,000/- with accrued interest without furnishing any security.

d) The Tribunal is directed to invest the remaining amount in fixed deposit of any Nationalised bank, initially for a period of one year and same to be continued till

further order.

e) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

f) Civil Application stands disposed of accordingly.

g) No order as to costs.

(K.K.TATED, J.)