

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

**CIVIL APPLICATION NO. 2127 OF 2019
IN
FIRST APPEAL STAMP NO. 821 OF 2019**

Shriram General Insurance
Company Ltd.

..... Applicant

V/s.

Shri. Raghunath Kedu Pawar & Ors.

..... Respondents

.....
Mr. Nikhil Mehta i/b KMC Legal Venture for Applicant.

.....
**CORAM : K.K.TATED, J.
DATED : 30th AUGUST, 2019**

P.C.

1. Heard learned counsel for the Applicant.
2. Advocate for the Applicant submits that, the respondents/claimants filed an execution application for recovery of entire amount. He submits that if entire amount is recovered by the respondents/claimants in execution application then nothing will survive in the present proceeding. Hence, there is an urgency.
3. The learned counsel for the Applicant submits that, by this Civil Application they are seeking stay of operation and implementation of impugned Judgment and Award dated 10th May 2018 passed by Motor Accident Claims Tribunal at Niphad, District Nashik in Motor Acciddnt Claim Petition No. 5 of 2016 holding

that, the applicant insurance Company is liable to pay sum of Rs.1 Lack to the respondents/claimants.

4. The learned counsel for the Applicant submits that, they have good chance of success in the present matter. He submits that, he received instructions from his client that, they are ready and willing to deposit entire awarded amount with interest in Tribunal within Four weeks from today. Statement is accepted.

5. The learned counsel for the Applicant submits that, they have no objection, if the respondents/claimants is permitted to withdraw 50% amount without any security, but subject to outcome of the First Appeal, because there is delay in filing in the present First Appeal. Statement is accepted.

6. Considering the submissions made by the learned counsel for the Applicant and averments made in Civil Application, I satisfied that applicant has made out a case for following order.

ORDER

a) Civil Application is allowed in terms of prayer clause ‘a’ which reads thus :

“That this Hon’ble Court be pleased to stay the execution of Judgment and Award dated 10-05-2018 passed in M.A.C.T. Application No. 5 of 2016 by Shri A.G. Mohabey, Member, Motor Accident Claims Tribunal@ NASHIK for NASHIK.”

On conditions that, applicant to deposit awarded amount with accrued interest in the Trial Court on or before 27th September 2019 failing which Civil Application shall stand dismissed without referring back to the Court.

b) If amount is deposited within stipulated time as stated in above, the respondents/claimants No. 1 and 2 are permitted to withdraw Rs.25,000/- each with accrued interest without any security, but subject to outcome of the First Appeal.

c) Tribunal is directed to invest remaining amount in fixed deposit to any Nationalized Bank initially for a period of one year and same to be continued till next date.

d) Sum of Rs. 25,000/- deposited by the applicant at the time of filing the First Appeal, registry is directed to transfer the said amount to the Motor Accident Claim Tribunal, Niphad in the account of motor Accident Claim Petition No. 5 of 2016 along with accrued interest immediately.

e) Civil Application stands disposed of accordingly.

f) No order as to costs.

(K.K.TATED, J.)