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

**CIVIL APPLICATION NO. 1193 OF 2019
IN
FIRST APPEAL (STAMP) NO. 1497 OF 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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Mr. Sarthak S. Diwan for the Applicant.

CORAM : K. K. TATED, J.
DATE : 3rd APRIL, 2019.

P. C. :

1. Heard learned Counsel Shri Diwan for the Applicant.
2. By this application, the Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 23.07.2018 passed by Motor Accident Claim Tribunal, Mumbai in Claim Application No. 2277 of 2010 holding that the Respondent/Claimant is entitled compensation of Rs.97,000/- with interest @ 7.5% p.a.
3. Learned Counsel for the Applicant submits that he received instruction that Insurance Company is ready and willing to deposit the entire awarded amount in the Tribunal within four weeks from today. Statement is accepted. He submits that on deposit of entire amount, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award dated 23.07.2018 passed by Motor Accident Claim

Tribunal, Mumbai in Claim Application No. 2277 of 2010. He submits that if the amount is withdrawn by the Respondent, nothing will survive in the present proceeding. He submits that they have good chance of success in the proceeding.

4. It is to be noted that in the present proceeding, an accident occurred on 10.08.2010, the Respondent-Claimant sustained 30% disability. It is recorded by the Tribunal in paragraph 25 of the Judgment.

5. Considering this fact, the Respondent/Claimant is entitled to withdraw some amount during the pendency of the First Appeal. Hence, following order :

(i) Civil Application is allowed in terms of prayer Clause (b) on condition that the Applicant-Insurance Company to deposit the entire awarded amount in the Tribunal on or before 03.05.2019, failing which the Civil Application shall stand dismissed without referring back to this Court. Prayer Clause (b) reads thus:

“(b) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned Judgment and Award dated 23.07.2018 passed by the Motor Accidents Claim Tribunal at Mumbai in M.A.C.P. No. 2277 of 2010 and disbursal of amount thereunder, be kindly stayed.”

(ii) If the amount is deposited within stipulated time as stated above, the Respondent-Claimant is entitled to withdraw 25%

amount without furnishing any security but subject of outcome of the First appeal.

(iii) 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 the same shall be renewed from time to time till further orders.

(iv) Sum of Rs.25,000/- deposited by the Insurance Company at the time of filing of the First Appeal, in the Registry of this Court, be transferred to the Motor Accident Claim Tribunal, Mumbai in the account of Claim Application No. 2277 of 2010 with accrued interest, if any, immediately.

(v) Liberty granted to the Respondent, if he so desire, to prefer appropriate application for withdrawal of remaining amount, which will be decided on its own merits.

(vi) Civil Application stands disposed of accordingly.

(vii) No order as to costs.

[K. K. TATED, J.]