

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2057/2019

in

First Appeal No.698/2019

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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Ms. Shalini Shankar for the Applicant

CORAM: K.K.TATED, J.

DATED : SEPTEMBER 18, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Appellant, the matter is taken on production board.

2 The learned counsel for the Applicant submits that the Respondent has filed Execution Application for recovery of the amount, wherein the executing court has issued attachment warrant. Hence, there is urgency.

3 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 25.09.2018 passed by the MACT Thane in MACP No.558/2015 holding that the Respondent-Claimant is entitled to sum

of Rs.4,78,449/- by way of compensation with interest @ 7% p.a.

4 The learned counsel for the Applicant submits that the compensation awarded by the tribunal is on higher side. She submits that they have good chance of success in the matter The learned counsel for the Applicant submits that she received instructions from their client that they are ready and willing to deposit the entire awarded amount along with accrued interest, if any, in the Tribunal within three weeks from today. The statement is accepted.

5 It is to be noted that in the present proceedings in an accident which occurred on 10.06.2015 the Respondent-Claimant sustained the injuries i.e. right tibia fibula ORIF and right distal 1/3rd tibia fibula fracture. The Doctor has assessed 10% disability and issued certificate Exh 27. Not only that the Respondent-Claimant has also placed on record documentary evidence to show that his salary was Rs.24,786/- pm. Considering these facts, I am of the opinion that the Applicant - Respondent can be permitted to withdraw 50% of the

awarded amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

6 Hence, 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 and costs in the Tribunal on or before 11.10.2019, 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 disposal of the present First Appeal, this Hon’ble Court be please to stay the effect, implementation and or execution of the impugned judgment and order dated 25.09.2018 passed by the Hon’ble Court of Member, in MACP No.558/2015.”

b. If amount is deposited within stipulated time as stated hereinabove the Respondent claimant Sitaram Ganpat Shelar is permitted to withdraw 50% of the awarded amount with accrued interest 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 account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

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. The Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K.TATED, J.)