

Tikam

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

CIVIL APPLICATION No. 1852 OF 2018

(For Stay)

IN

FIRST APPEAL (ST) No. 4188 OF 2018

Reliance General Insurance Company Limited      ...Applicant

Vs.

Mr. Dhanaji Kashinath Kolekar and Ors.      ...Respondents

Ms. Poonam Mittal for Applicant

**CORAM :    SHRI K.K. TATED, J.**

**DATE     :    MAY 02, 2019**

**P.C.:**

1.     Heard learned counsel Ms. Poonam Mittal for the Applicant.
2.     By this civil application, the Applicant is seeking stay of the operation and implementation of the judgment and award dated 11<sup>th</sup> January, 2017 passed by the Motor Accidents Claim Tribunal, Kolhapur in MACP No. 551 of 2011 holding that Respondents /Claimants are entitled sum of Rs. 9,57,120/- by way of compensation along with interest at the rate of 7% p.a.
3.     Learned counsel for the Applicant submits that they have already deposited the entire awarded amount in the Tribunal. Statement is accepted.
4.     Learned counsel for the Applicant submits that if the entire awarded amount is recovered by the Respondents/Claimants by filing execution application, then nothing will survive in the present proceedings. They have good chance of success in the Tribunal.

Learned counsel for the Applicant submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award dated 11<sup>th</sup> January, 2017 passed by the Tribunal.

5. In the present proceedings, the accident occurred on 10<sup>th</sup> February, 2011. Respondent No.1 /Claimant No.1 Dhanaji Kashinath Kolekar sustained 69% disability. Considering this fact, the Tribunal held that Claimant No.1 is entitled to sum of Rs.9,57,120/- with interest @7% p.a. from the date of filing of the application

6. Considering the fact that Respondent No.1 sustained permanent disability to the extent of 69%, I am of the opinion that the Respondents/ Claimants can be permitted to withdraw 50% awarded amount without furnishing any security during the pendency of the First Appeal, but subject to outcome of the First Appeal.

7. Considering the submissions made by the learned counsel for the Applicants and perusing the impugned judgment and award dated 11<sup>th</sup> January, 2017, I am satisfied that the Applicant has made out a case for allowing this Civil Application :

### **ORDER**

(A) Civil Application is allowed in terms of prayer clause (a), which reads thus:

“(a) That pending the hearing and final disposal of the First Appeal the Order and Judgment passed by the K.R. JOGLKAR, Member, MACT Kolhapur in application MACP No.551 OF 2011 dated 11<sup>th</sup> January, 2017, be stayed”

(B) Respondent No.1 is permitted to withdraw 50% amount without furnishing any security but subject to the outcome of the First Appeal.

- (C) The Tribunal Court is directed to invest the remaining balance amount in the fixed deposit of any nationalized bank initially, for a period of one year and same to be continued till further orders.
- (D) Liberty granted to the Claimants to make appropriate Application for withdrawal of further amount and that Application be decided on its own merits.

Civil application stands disposed off accordingly.

**[ K.K. TATED, J.]**