

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1856 OF 2016
IN
FIRST APPEAL STAMP NO. 4241 OF 2015

United India Insurance Company Ltd.	.. Applicant
Vs.	
Waman Martond Sakat (deceased)	
Anupama Waman Sakat and ors.	.. Respondents

Mr.Nikhil Mehta I/b KMC Legal Venture, for the Applicant.
Ms.Kruttika Pokale I/b Mr.Avinash Gokhale, for the Respondents
No. 2 to 4.

CORAM : K.K.TATED, J.

DATE : 20th AUGUST, 2019

P.C. :

Heard learned Counsel for parties.

2. By this Civil Application, applicant- Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 13/02/2014 passed by Motor Accident Claims Tribunal, Thane in Motor Accident Claims Petition No. 519 of 2001 holding that the respondents –

original claimants are entitled a sum of Rs.3,60,064/- by way of compensation with interest @ 7% p.a. from the date of application till its realization.

3. Learned Counsel for the applicant submits that at the time of passing the impugned judgment and award, Tribunal failed to give any reason, why the application stood dismissed against original opponents No. 1 & 2 i.e. Sanjay Dnandeo Arjun – owner of tractor and Oriental Insurance Company Ltd. He further submits that Tribunal erred in coming to the conclusion that applicant – Insurance Company is liable to pay compensation to the respondents – original claimants. He submits that they have good chance of success in the present proceedings. He submits that pending the hearing and final disposal of the present Appeal, this Hon'ble Court be pleased to stay the effect, operation and implementation of the judgment and award dated 13/02/2014 passed by the Motor Accident Claims Tribunal, Thane.

4. Learned Counsel for the applicant submits that if the entire amount is recovered by the respondents - original claimants by filing Execution Application, then nothing will survive in the present proceeding.

5. Learned Counsel for the applicant submits that he has instructions from his client that they are ready and willing to deposit the entire amount with interest before Tribunal within 4 weeks from today. Statement is accepted.

6. It is to be noted that in the present proceedings, an accident which occurred on 02/05/2001, original claimants No. 2, 3, & 4 lost their mother. Hence, they filed Motor Accident Claims Petition under Section 166 of the Motor Vehicles Act, 1988 claiming a sum of Rs.2,50,000/-. The Tribunal after considering the material on record held that the claimants are entitled a sum of Rs.3,60,064/- by way of compensation with interest. Considering the reasons given by the Tribunal, I am of the opinion that claimants can be permitted to withdraw some amount in the preset First Appeal because all of them are taking

education. Hence, the following order.

ORDER

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

“That this Hon'ble Court be pleased to stay the effect, operation and implementation of the Judgment and Award dated 13/02/2014 passed in M.A.C.T. Application No. 519 of 2001 by Shri S.Y. Kulkarni- Learned Member, Hon'ble Motor Accident Claims Tribunal THANE @ THANE.”

on condition that applicant – Insurance Company to deposit the entire amount along with interest in Tribunal on or before 21/09/2019, failing which Civil application shall stand dismissed without further reference to the Court.

(ii) If the amount is deposited within the stipulated time as stated above, respondents- claimants - Anupama, Sagar, Swapnil are entitled to withdraw 10% of total compensation with accrued interest each without furnishing any security, but subject to outcome of the First Appeal.

(iii) The Tribunal is directed to invest the award amount in a Fixed Deposit account of any Nationalised Bank, initially for a period of one year and same shall be renewed till further orders.

(iv) Registry is directed to transfer the sum of Rs. 25,000/- with accrued interest deposited by the applicant at the time of filing of First Appeal to the Motor Accident Claims Tribunal, Thane in the account of Motor Accident Claims Petition No. 519 of 2001.

7. Civil Application stands disposed of. No order as to costs.

(K.K.TATED, J.)