

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2054 OF 2017
IN
FIRST APPEAL NO. 502 OF 2019

United India Insurance Co.Ltd.

..... Applicant.

Vs.

Shyama Raju Malhar & Ors.

..... Respondents

Ms Varsha Chavan for Appellant.
None for Respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 12, 2019

P.C.

1. Heard learned counsel for the Applicant.
2. Though the Respondents are served, no one appeared on behalf of them when the matter called out.
3. By this Civil Application, the Applicant insurance company is seeking stay to the operation and implementation of impugned judgment and award dated 18th August 2016 passed by the Motor Accident Claims Tribunal, Mumbai in application no. 2482 of 2009 holding that claimant is entitled to sum of Rs. 80,000/- by way of compensation with 7.5% interest p.a.

4. The learned counsel for the Applicant submits that they have already deposited the entire awarded amount. The statement is accepted. He submits that in the interest of justice, pending the hearing and final disposal of First Appeal this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal. She submits that if the entire amount is withdrawn by the Respondents/Claimants nothing will survive in the present proceedings.

5. It is to be noted that in the present proceedings in accident which occurred on 27th September, 2009 the claimant sustained injuries. Hence the claimants filed an application under Section 166 of Motor Vehicle Act, 1988 for compensation of Rs.1,50,000/- with interest.

6. Considering the submission made by the learned counsel for the Applicant and the impugned award, I am of the opinion that the Respondents/Original Claimants can be permitted to withdraw same amount without furnishing any security but subject to outcome of the First Appeal.

7. Hence, the following order:

a. Application is allowed in terms of prayer clause (a) which is reproduced below:

“(a) That pending the hearing and final disposal of this appeal, the implementation and/or the execution of the Award dated 18/08/2016 passed by Shri. S. M. Yallatti,, Member, MACT, Mumbai in MACT application No. 2482 of 2009 be kindly stayed;”

- b. the Respondents/Claimants are permitted to withdraw 25% amount deposited by the insurance company without furnishing any security but subject to outcome of the First Appeal
- c. Liberty is granted to the Respondents/Original Claimants, if he so desire to prefer an appropriate application for withdrawal of further amount, which shall be decided on its merits.
- d. Civil Application stands disposed off accordingly.

(K.K.TATED, J.)