

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1660 OF 2019
IN
FIRST APPEAL NO. 551 OF 2019

Tata AIG General Insurance Co. Ltd. ... Applicant
Vs.
Ramdas Goroba Suryawanshi ... Respondent

Mr. Devendranath S. Joshi, Advocate for the applicant.

CORAM: **K.K. TATED, J.**
DATE: **20th June, 2019**

P.C.:

Heard the learned counsel for the applicant.

2. By this Civil Application, the Applicant-Insurance company is seeking stay of the operation and implementation of the judgment and award dated 5th December, 2018 passed by the Motor Accident Claims Tribunal, Baramati in Motor Accident Claims Petition No. 77 of 2013.

3. Learned counsel for the applicant submits that in accident, which occurred on 2nd September, 2012, Respondent/Original Claimant sustained injuries and hence he filed claim petition under Section 166 of the Motor Vehicles Act for compensation of Rs.

1,00,000/- with interest. He submits that the respondent/original claimant himself was driving the offending car no. MH-42-H-9923 at the time of accident, therefore, whether the insurance company is liable to pay compensation is not properly decided by the Trial Court. He submits that if the entire compensation amount is recovered by the respondent/original claimant by filing execution application, then nothing will survive in the present first appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award during the pendency of the present First Appeal.

4. The learned counsel for the applicant submits that he received instructions from his client that they are ready and willing to deposit the entire compensation amount along with interest preferably within four weeks from today. The learned counsel further submits that at the time of filing of First Appeal, the appellant deposited sum of Rs.25,000/- in the registry of this Court. He submits that the said amount be directed to be transferred to concerned Motor Accident Claims Tribunal.

5. Considering the submissions made by the learned counsel for

the Applicant, averments made in the Civil Application and as the Applicant is ready and willing to deposit the entire awarded amount with interest, I am satisfied that the Applicant has made out a case for following order:

ORDER

- (i) Civil Application is allowed in terms of prayer clause (a), which reads thus, on a condition that the Applicant-Insurance Company to deposit the entire awarded amount along with interest in the Tribunal on or before 20th July, 2019, failing which, civil application shall stand dismissed without referring back to the Court.

“(a) Pending the hearing and final disposal of the Appeal, this Honourable Court, by an order of stay, may kindly stay the operation, implementation and execution of the part of impugned Judgment and Award dated 5th December, 2018 passed by the Motor Accident Claim Tribunal, Baramati, in M.A.C.P. No. 77 of 2013.”

- (ii) Registry is directed to transfer sum of Rs.25,000/- deposited by the Applicant at the time of filing present First Appeal with accrued interest to the account of Motor Accident Claims Petition No. 77 of 2013 to Motor Accident Claims Tribunal,

Baramati, District Pune;

- (iii) If entire amount is deposited by the Applicant Insurance Company within stipulated time as stated hereinabove, the Tribunal is directed to invest the said amount in a fixed deposit of Nationalized Bank, initially, for a period of one year and same to be continued till further orders.
- (iv) Liberty is granted to the respondent/original claimant, if he so desires, to prefer an application for withdrawal of the amount and that application to be decided on its own merits.
- (v) Civil Application stands disposed of accordingly.

(K.K. TATED, J.)