

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

**CIVIL APPLICATION NO. 98 OF 2016
IN
FIRST APPEAL (ST.) NO. 5707 OF 2015**

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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Devendranath S. Joshi for the Applicant.

**CORAM: K.K.TATED, J.
DATED : OCTOBER 15, 2019**

P.C.

1 Heard.

2 By this Civil Application, the Applicant is seeking stay of the operation and implementation of the Judgment and award dated 23/06/2014 passed by the Motor Accident Claims Tribunal, Mumbai in Motor Accident Claim Petition No. 3333/2004 holding that the Respondents/Original Claimants are entitled a sum of Rs. 14,20,126/- with interest @ 7.5% p.a.

4. The Learned Counsel for the Applicant submits that, he has received instructions from his client that they are ready and willing to deposit the entire awarded

amount in the Tribunal within three weeks from today.

5. The 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 Judgment and award. He submits that if the entire amount is recovered by the Claimants then nothing will survive in the present proceeding.

6. It is to be noted that, in the present proceeding, the Respondents/Original Claimants lost their son in accident which occurred on 10/04/2004. Hence, the Original Claimants i.e. parents of the deceased filed application under Section 166 of the Motor Vehicles Act, 1988 claiming the compensation of Rs. 15,00,000/-. During the pendency of the Claim Application, the Original Claimants i.e. parents of deceased were expired. Hence, the legal heirs brought on record.

7. Considering the fact that, there is delay of 59 days in filing the First Appeal, I am of the opinion that the Respondents/Original Claimants can be permitted to withdraw some amount during the pendency of the

present First Appeal. Hence, the following order:

a. Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 08/11/2019, failing which 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 appeal, this Honourable Court, by an order of stay, may kindly stay the operation and implementation and execution of the part of the impugned Judgment and Award dated 23/06/2014 passed by the Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 3333/2004;”

b. If the entire amount is deposited within the time, the Respondents/Claimants are entitled to withdraw 50% amount with accrued interest as per their share as per impugned order each without furnishing any security but subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the balance amount in fixed deposit of any Nationalized bank, initially for a period of one year and same to be continued till

further order.

d. Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

d. Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)