

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2129/2019
in
First Appeal (ST) No.5906/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Vikrant V. Parashurami for the Applicant	

CORAM: K.K.TATED, J.
DATED : OCTOBER 18, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant the matter is taken on production board.

2 The learned counsel for the Applicant has filed Affidavit of Service dated 22.10.2019.

3 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 27.08.2018 passed by the MACT Mumbai in MACP No.2301/2012 holding that Respondent-Claimants are entitled to sum of Rs.4,62,000/- with interest @ 7.5% p.a.

4 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application for recovery of the entire amount. He submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. He submits that in the present proceedings the Tribunal has erred in coming to the conclusion that the Insurance Co. is liable to pay sum of Rs.4,62,000/- to the Respondent-Claimant. He submits that they have good chance of success in the matter.

5 The learned counsel for the Applicant submits that till 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. He submits that he received instructions from their client that they are ready and willing to deposit the entire awarded amount along with accrued interest, if any, in the Tribunal within four weeks from today. The statement is accepted.

6 Considering the submissions made by

the learned counsel for the Applicant and the averments made in the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

7 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 22.11.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

(a) During the pendency and final disposal of the accompanying First Appeal, the operation, implementation and execution of the order dated 27.08.2018 passed by the Learned Judge, MACT, Mumbai in MACP No.2301/2012 by stayed."

b. The Tribunal is directed to invest the awarded amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

- c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits.
- d. The Civil Application stands disposed of accordingly.
- e. No order as to costs.

(K.K.TATED, J.)