

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2064 OF 2019
IN
FIRST APPEAL NO. 706 OF 2019

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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Ms. Deepika Prabhala I/b Res Juris for the Applicant.

CORAM: K.K.TATED, J.
DATED : 16/09/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant is seeking stay of the operation and implementation of the Judgment and Award dated 15.11.2018 passed by MACT, Mumbai in MACP No. 1190 of 2013 holding that the Respondents original Claimants are entitled to a sum of Rs. 48,30,000/- by way of compensation with interest @ 7.5 % p.a.

3 The learned Counsel for the Applicant submits that in the present proceeding on the date of accident the driver of the offending vehicle was not holding valid licence. Hence, Insurance Company is not

liable to pay compensation. She submits that compensation awarded by the Tribunal is on higher side. She submits that they have good chance of success in the present matter. She submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survive in this First Appeal. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal.

4 The learned Counsel for the Applicant submits that she received instructions from his client that they are ready and willing to deposit the entire amount with interest within four weeks from today.

5 Considering the submissions made by the learned Counsel for the Applicant and observations made by the Tribunal and as Applicant is ready and willing to deposit the entire amount in the Tribunal on or before 19.10.2019, I am of the opinion that both the Claimants can be permitted to withdraw the amount during the pendency of the First Appeal.

6 In view of the above facts, following order is passed:

a) Civil Application is allowed in

terms of prayer clause (b) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 19.10.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (b), reads thus:

“b) Pending hearing and final disposal of the First Appeal the execution, implementation and operation of Judgment and Award dated 15.11.2018 passed by the Learned Member, Motor Accident Claims Tribunal, Mumbai in MACP No. 1190 of 2013 may kindly be stayed.”

b) If amount is deposited within stipulated time, the Respondent Claimant No.1 Mrs. Neha Sajeed Ansari and Claimant No.2 Mrs. Shehnaazbano Abdul Jabbar Ansari are entitled to withdraw 25% amount each with accrued interest without furnishing any security but subject to outcome of the First Appeal.

c) The Tribunal is directed to invest remaining amount in fixed deposit of any nationalised 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.

e) Civil Application stands disposed of accordingly.

f) No order as to costs.

(K.K.TATED, J.)