

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 2559 OF 2019
IN
FIRST APPEAL NO.1003 OF 2019**

Divisional Manager,
Reliance Insurance Co. Ltd. Appellant.

Vs.

Sau. Ajita Rajendra Pawar and Ors. Respondents.

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Ms. Shalini Shankar for the appellant.
Mr. Pritesh K. Bohade for respondent Nos.1 and 2.

.....

**CORAM : K.K.TATED, J.
DATED : AUGUST 19, 2019**

P.C.

Heard Learned Counsel for the parties.

2. By this Civil Application, Applicant/Insurance Company is seeking stay of operation and implementation of Judgment and Award dated 03/10/2015 passed by the Motor Accident Claims Tribunal, Nashik in Motor Accident Claim Petition No.119 of 2014.

3. Learned Advocate for applicant/Insurance Company submits that, the Tribunal held that, the respondents/claimants are entitled to the compensation of Rs.79,00,000/- with interest. She submits that

they specifically raised objection about breach of terms and conditions of Insurance Policy. She further submits that even the compensation awarded by the Tribunal is on higher side, they have good chances of success in the present case.

4. Advocate 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 impugned Judgment and Award passed by the Tribunal. She submits that if entire amount is recovered by the claimants, then nothing will survive in the present proceedings.

5. The Learned Counsel for applicant further submits that she has instructions from her client that they are ready to deposit the entire amount with interest in the Tribunal within four weeks from today.

6. On the other hand, the Learned Counsel Mr.Pritesh K. Bohade appearing on behalf of respondents/claimants opposed the present Civil Application. He submits that in the present proceeding, accident is occurred on 18/05/2010. Claimant No.1 sustained the injuries. He submits that the Doctor certified the 100% disability. At the time of

accident, the claimant was 47 years old. He further submits that they spend more than Rs.12,00,000/- on the medical expenses. Hence, they filed an application under Section 166 of Motor Vehicle Act, claiming the compensation of Rs.70,34,000/- with interest. He submits that there is no question of granting any stay in favour of the applicant. He further submits that if stay is granted, in that case, applicant/claimant may be permitted to withdraw the amount without furnishing any security.

7. I heard both the sides.

8. It is to be noted that in the present proceedings, on the date of accident, the original claimant was 47 years old. He has sustained injuries and Doctor certified 100% disability. Considering this fact, I am of the opinion that claimant can be permitted to withdraw 50% of the total compensation without furnishing any security, but subject to outcome of the First Appeal. Hence, the following order :

ORDER

(A) Civil Application No.2559 of 2019 is allowed in terms of prayer clause (a), which reads thus :

(a) Pending the hearing and final disposal of the present

First Appeal, this Hon'ble Court be pleased to stay the effect, implementation and/or execution of the impugned Judgment and Order dated 03/10/2018 passed by the Hon'ble Court of Members, in Motor Accident Claim Petition No.119 of 2014.”,

on a condition that applicant to deposit entire awarded amount with interest in Tribunal on or before 21/09/2019, failing which, Civil Application shall stand dismissed without further reference to the Court.

(B) If amount is deposited within stipulated time as stated above, the respondent/original claimant Sau. Ajita Rajendra Pawar is entitled to withdraw 50% of awarded amount with interest without furnishing any security, but subject to outcome of the First Appeal.

(C) The Tribunal is directed to invest the remaining amount in any Nationalized Bank in Fixed Deposit, initially for a period of one year and same to be continued till further orders.

(D) Civil Application stand disposed of accordingly.

(E) No order as to costs.

(K.K.TATED, J.)