

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

**CIVIL APPLICATION NO.2563 OF 2019
IN
FIRST APPEAL (ST) NO.6768 OF 2019**

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Pune Division ..Applicant

V/s.

Smt.Laxmibai Maruti Dudhe & Ors. .. Respondents

Mr.D.D. Rananaware for the Applicant.

CORAM : K.K. TATED, J.

DATE : 30th JULY 2019

P.C.

1. Heard learned counsel for the applicant.
2. By the Civil Application applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 15.10.2018 passed by the MACT, Baramati in MACP No.68 of 2016 holding that the respondent-claimants are entitled sum of Rs.29,20,700/- by way of compensation with interest @ 9% per annum.
3. The learned counsel for the applicant submits that if the

entire amount is recovered by the respondent-claimant by filing execution application, then nothing will survive in the present proceeding. He submits that, they have a good chance of success in the present proceeding. He submits that, at the time of deciding the compensation, the Tribunal has failed to consider the evidence on record and came to conclusion that the driver of the offending vehicle Mr.Sukhdeo O.W. No.1 was also responsible for accident.

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 with interest in Tribunal within four weeks from today. Statement accepted.

5. It is to be noted that in the present proceedings the accident occurred on 29.09.2015. The claimant No.1 lost her husband who was doing service. That time, he was drawing salary of Rs.29,138/- per month. To prove the salary, the respondent-claimant placed on record salary slip at Exhibit Nos.41 and 42.

6. On the basis of the evidence, Tribunal held that the respondent-claimants are entitled for compensation of Rs.29,20,700/- instead of Rs.70 lakhs as claimed by them.

7. Considering the fact that the claimant No.1 is the widow and other claimants are son of the deceased, they can be permitted to withdraw same amount. Hence, following order.

ORDER

(i) Civil Application is allowed in terms of prayer clause (a), which reads thus :-

“(a) Be pleased to stay the effect, implementation and execution of the said impugned judgment and award dated 15/10/2018 in the MACP No.68 of 2016 passed by the learned MACT, Baramati, District-Pune.”

On condition that the applicant to deposit an entire awarded amount along with interest in Tribunal on or before 31.08.2019, failing which the Civil Application stand dismissed without referring back to the Court.

(ii) If the amount is deposited within stipulated time as stated herein above, the claimant No.1 Laxmibai Maruti Dudhe is entitled to withdraw sum of Rs.5 lakhs with accrued interest thereon, without furnishing any security, and claimant Nos.2 and 3 Gorakh Maruti Dudhe and Navnath Maruti Dudhe are entitled to

withdraw sum of Rs.1 lakh respectively with accrued interest thereon, without furnishing any security but subject to outcome of the First Appeal.

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

(iv) Liberty granted to the respondent-claimant, if they so desire, to file application for withdrawal of the further amount and that would be decided on its own merit.

(v) Civil Application disposed of accordingly.

(vi) No order as to costs.

(K.K. TATED, J.)