

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1607/2019
in
First Appeal (ST) No.7242/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr.Nikhil Mehta i/b .KMC Legal Venture for the Applicant.	

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 6, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 03.12.2018 passed by the 9th Labour Court, Mumbai in application (ECA) No.334/C/106/17 holding that the Respondent-Claimant is entitled to sum of Rs.6,30,642/- by way of compensation and interest thereon.

2 The learned counsel for the Applicant submit that they have already deposited entire awarded amount in the Tribunal. In support of his contention he relies on receipt dated 22.02.2019, page 20 of the appeal memo. The statement is accepted.

3 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 impugned judgment and award. He submits that if the entire amount is withdrawn by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. He submits that the compensation awarded by the Tribunal is on higher side. Not only that, while awarding the compensation to the claimant, the labour court has failed to consider the fact that the Respondent No.2 has paid sum of Rs.3 lacs to the claimant.

4 The learned counsel for the Applicant submits that they have good chance of success in the matter. He 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.

5 It is to be noted that in the present

proceedings in an accident which occurred on 22.07.2017 the Respondent-Claimant sustained injuries. At that time he was working as a Driver. He placed on record documents to show that because of accident it is not possible for him to work as a Driver. Hence, the Labour Court has considered 100% disability. Though the Respondent-Claimant has claimed sum of Rs.9,67,968/- as compensation with 12% interest, the labour court awarded only sum of Rs.6,50,842/-.

6 Considering these facts and the objections raised by the Applicant in the Civil Application, I am satisfied that the Applicant has made out a case for withdrawal of 50% of the awarded amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

7 Hence, following order is passed:

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

“(a) This Hon'ble Court be pleased to stay the implementation, execution operation of the order dated

*03.12.2018 passed in application
(WCA) No.334/C-106 of 2017 by
Labour Court, Mumbai.”*

b. Respondent-Claimant Mr. Arif Ahmed Khan is entitled to withdraw 50% of the awarded amount with accrued interest without furnishing any security but subject to outcome of the First Appeal..

c. The Tribunal is directed to invest the remaining 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.

d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

e. The Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K.TATED, J.)