

Tikam

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

CIVIL APPLICATION No.3600 OF 2016
(For Stay)
IN
FIRST APPEAL (ST) No.8044 OF 2016

HDFC Ergo General Insurance Company Limited	...Applicant
Vs.	
Smt. Shobha Balkrushna Pokale and Anr.	...Respondents

Mr. Abhijeet P. Kulkarni for Applicant
Mr. V.B. Tapkir for Respondent No.1

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Heard learned counsel for the parties.
2. By this civil application, the Applicant Insurance Company is seeking stay of operation and implementation of the impugned judgment and award dated 2nd May, 2015 passed by the Motor Accident Claim Tribunal in M.A.C.P. No. 720 of 2013 holding that the Respondent/Original Claimant is entitled for a sum of Rs.5,07,000/- by way of compensation along with interest at the rate of 7.5% p.a. from the date of filing of the application till realization.
3. The learned counsel for the Applicant submits that he received instruction from Insurance Company that whether they are ready and willing to deposit the entire awarded amount in the Tribunal on or before 17th May, 2019. He submits that during the pendency of the present proceedings, the operation and implementation of the impugned judgment and award may be stayed. He submits that if the entire

amount is recovered by the Respondents, then nothing will survive in the present proceedings.

4. On the other hand, learned counsel Mr. V.B. Tapkir for Respondent No.1 submits that in the present proceedings, there is a delay of 166 days in filing the first appeal. He submits that due to the death of the husband of the Original Claimant, she has no source of income, hence, she may be permitted to withdraw the said amount during pendency of the First Appeal.

5. Considering the submissions made by both the counsel for applicant, I am satisfied that the Applicant has made out a case for following order. Hence, following order:

ORDER

- (A) Pending the hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned Judgment and Award dated 02/05/2015 passed by the Motor Accidents Claim Tribunal, Pune in M.A.C.P. No. 720 of 2013 is stayed on condition that the Applicant to deposit the entire awarded compensation along with interest in the Motor Accident Claim Tribunal on or before 17th May, 2019, failing which the civil application shall stand dismissed without reference to the Court.
- (B) If amount is deposited in the Tribunal in time, Respondent No.1/Original Claimant Shobha Balkrushna Pokale is entitled to withdraw a sum of Rs.2,00,000/- with accrued interest thereon without furnishing any security, subject to the outcome of the First Appeal.

- (C) The Tribunal is directed to invest the remaining amount in a fixed deposit of any nationalized bank, initially for a period of one year and to be continued till further orders.
- (D) Liberty granted to the Claimant to make appropriate Application, if she so desires for withdrawal of further amount, and will be decided on its own merits.
- (E) The Registry is directed to transfer a sum of Rs.25,000/- deposited by the Applicant at the time of filing of the First Appeal with accrued interest, if any, to the Motor Accident Claim Tribunal, Pune in the account of M.A.C.P. No. 720 of 2013 immediately.
- (F) Civil Application stands disposed of accordingly.

[K.K. TATED, J.]