

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1121 OF 2019
IN
FIRST APPEAL (ST) NO.35947 OF 2018

The New India Assurance Co.
Ltd. Thr. Its Branch Manager .. Applicant
Versus
Mr. Pandurang Ramchandra Parakhe & Ors. .. Respondents

Mrs. Deepika Prabhala I/b Res Juris for applicant.

CORAM : K.K. TATED, J.

DATED : MARCH 19, 2019.

P.C. :

1 Heard learned Counsel for applicant.

2. By this Civil Application, Insurance Company is seeking the stay of the operation and implementation of the impugned judgment and award dated 27.04.2018 passed by Motor Accident Claim Tribunal, Satara in Motor Accident Claim Petition No.266 of 2014 holding that the respondent/original claimants are entitled for a sum of Rs.6,55,000/- by way of compensation along with interest at the rate of 7.5% per annum.

3. The learned Counsel for the applicant submits that earlier they preferred Civil Application No.139 of 2019 for stay. She further submits that the said Civil Application was allowed by this Court by order dated 16.01.2019 directing them to deposit the entire amount in tribunal within 6 weeks from the date of that order. She submits that it remain on the part of the applicant to comply the said order within time. She submits that they have deposited entire amount in tribunal on 02.03.2019.

4. The learned Counsel for the applicant submits that respondent/original claimant preferred Execution Application for recovery of the entire amount. She submits that the next date before the Executing Court is 20.03.2019. She submits that if the entire amount is recovered by the respondent/original claimant in Execution Application then nothing will survive in the present proceedings.

5. The learned Counsel for the applicant submits that in the interest of justice this Hon'ble Court be pleased to extend the time to comply the order dated 16.01.2019 in Civil Application No.139 of 2019 and stay the operation and impugned judgment and award dated 27.04.2018 passed by Motor Accident Claim

Tribunal, Satara in Motor Accident Claim Petition No.266 of 2014.

6. The learned Counsel for the applicant submits that they have no objection if the respondent/original claimants is permitted to withdraw 10% each without furnishing any security but subject to the outcome of the First Appeal.

7. Considering the submissions made by learned Counsel for the applicant, averments made in Civil Application, the earlier passed in Civil Application No.139 of 2018 and as the applicant deposited the entire amount in tribunal on 02.03.2019, I am satisfied that the applicant has made out case for allowing this Civil Application. Hence, following order :-

- a) Time to comply the order dated 16.01.2019 passed by this Court in Civil Application No.139 of 2019 is extended till today.
- b) The Operation and implementation of the impugned judgment and award dated 27.04.2018 passed by Motor Accident Claim Tribunal, Satara in Motor

Accident Claim Petition No.266 of 2014 is stayed till the hearing and final disposal of the First Appeal.

- c) The respondent/original claimant Pandurang Ramchandra Parakhe, Santosh Pandurang Parakhe, Vilendra Pandurang Parakhe and Vinish Pandurang Parakhe are entitled to withdraw the amount of compensation with interest 10% each deposited by the Insurance Company without furnishing any security but subject to outcome of the First Appeal.
- d) 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 continued till further orders.
- e) Liberty granted to the respondent/original claimants, if they so desire, to prefer an appropriate application for withdrawal of the said amount, which will be decided on its own merits.
- f) Civil Application stands disposed of accordingly.
- g) No order as to costs.

(K. K. TATED, J.)