

Tikam

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
 CIVIL APPLICATION No.1448 OF 2019
 IN
 FIRST APPEAL (ST) No. 8391 OF 2019

Maharashtra State Road Transport
 Corporation, through its Divisional
 Officer

...Applicant

Vs.

Tanushri Ghanshyam Bera and Ors.

...Respondent

 Ms. Ayodhya Patki i/b. N.V. Bhutekar for Applicant

CORAM : SHRI K.K. TATED, J.

DATE : APRIL 16, 2019

P.C.:

1. Not on Board. At the request of learned counsel for the Applicant, matter is taken on board.
2. Heard learned counsel Ms. Ayodhya Patki for Applicant.
3. By this civil application, the Applicant is seeking stay of the operation and implementation of the judgment and award dated 6th January, 2018 passed by the Motor Accident Claim Tribunal, Nashik in MACP No. 759 of 2013 holding that the Respondent/Original Claimant is entitled for compensation of Rs.4,42,642/- with interest @9% p.a..
4. Learned counsel for the Applicant submits that the Respondent/Claimant filed Execution Application No. 134 of 2018 for recovery of total amount of Rs.6,31,024/-. She submits that if the entire amount is recovered by the Respondent/Claimant in execution proceedings, then nothing will survive in the present proceeding. She further submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award dated 6th January, 2018 during pendency and final

disposal of the present proceedings. She submits that if the stay is not granted, irreparable loss would be caused to the Applicant.

5. It is to be noted that in the present case, accident had occurred on 11th November, 2010. The Respondent/Claimant injured and sustained 40% permanent disability. She also spent more than Rs.1,40,000/- towards her medical treatment. Apart from that, there is a delay in filing the first appeal on the part of the Applicant. Hence, it would be appropriate if the Applicant is directed to deposit entire amount in the Reference Court and the Respondent / Claimant would be permitted to withdraw 50% amount without furnishing any security. Hence, the 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 6th January, 2018 passed by the Motor Accident Claim Tribunal, Nashik in MACP No. 759 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 4th June, 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/ Original Claimant is entitled to withdraw 50% awarded amount 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. 759 of 2013 immediately.
- (F) Civil Application stands disposed of accordingly.

[K.K. TATED, J.]