

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3248/2019

in

First Appeal (ST) No.8450/2019

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Ms. Shalini Shankar for the Applicant

CORAM: K.K.TATED, J.

DATED : OCTOBER 14, 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 26.02.2018 passed by the MACT Mumbai in MACP No.872/2010 holding that the Respondent-Claimant is entitled to sum of Rs.1,03,216/- by way of compensation with interest @ 9% p.a.

2 The learned counsel for the Applicant submits that the Tribunal has awarded compensation on higher side. She submits that they have good chance of success in the matter. She submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will

survive in the present proceedings. She submits that he received instructions from their client that they are ready and willing to deposit the entire awarded amount along with accrued interest, if any, in the Tribunal within two weeks from today. The statement is accepted.

3 It is to be noted that in the present proceedings in an accident which occurred on 22.03.2010 the Respondent-Claimant sustained several injuries and because of that he was indoor patient in the hospital from 22.03.2010 to 29.03.2010. Dr.Shah examined the claimant and assessed 30% partial disability. At that time he was 40 years old. Therefore, he had filed an application u/s.166 of the Motor Vehicles Act, 1988 for compensation of Rs.3 lacs. Considering these facts and also there is delay of 267 days in filing the First Appeal, I am of the opinion that the claimant can be permitted to withdraw 50% of the awarded amount with accrued interest without furnishing any security but subject to outcome of the First Appeal,

4 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 08.11.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) Pending the hearing and final disposal of the present First Appeal , this Hon'ble Court be pleased to stay the effect, implementation and or execution of the impugned judgment and order dated 26.02.2018 passed by the Hon'ble Court of Member, in MACP No.872/2010.”

b. The claimant Mr.Sanjay Ramchandra Bhilar is allowed 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.)