

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2765/2019

in

First Appeal (ST) No.8580/2019

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

CORAM: K.K.TATED, J.

DATED : AUGUST 21, 2019

P.C.

1 Heard. This Application is for stay to the operation and implementation of the judgment and award dated 19.09.2018 passed by the MACT Nasik in MACP No.694/2014 holding that the Respondent-Claimant is entitled to sum of Rs.3,04,604/- by way of compensation with interest @ 7% p.a.

2 The learned counsel for the Applicant submits that if the entire amount is recovered by the Respondent-Claimant by filing Execution Application then nothing will survive in the present proceedings. He submits that the Applicant is ready and willing to deposit

the entire awarded amount in the Tribunal within four weeks from today. 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. He submits that the Applicant has specifically raised objection before the Trial Court about the breach of terms and conditions of the policy.

3 It is to be noted that in the present proceedings in an accident which occurred on 03.01.2014 the Applicant sustained injuries. At that time, he was 34 years old and he was earning Rs.1,80,000/- p.a. from his business M/s. Prerana Organic Pvt. Ltd. Because of accident, he sustained 35% disability and to that effect he has placed on record a certificate issued by the Doctor.

4 Considering these facts, I am of the opinion that the Respondent-Claimant can be permitted to withdraw 35% amount of compensation with accrued interest without furnishing any security but subject to outcome of the First Appeal. In any case, there is delay on the

part of the Applicant to file the present First Appeal.

5 The learned counsel for the Applicant submits that the amount of Rs.25,000/- deposited by them at the time of filing the First Appeal be transferred to the MACT, Nasik in MACP No.694/2014.

6 Considering the above mentioned facts, 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 27.09.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) This Hon’ble Court be pleased to condone the delay of 50 days occurred in filing present First Appeal.”

b. If the amount is deposited within stipulated time as stated hereinabove, the claimant is entitled to withdraw 35% 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.

f. The amount of Rs.25,000/- deposited by the Applicant at the time of filing the First Appeal be transferred to the MACT, Nasik in MACP No.694/2014.

g. The Civil Application stands disposed of accordingly.

h. No order as to costs.

(K.K.TATED, J.)