IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2715 OF 2019
IN
FIRST APPEAL (ST) NO. 8612 OF 2019

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

Mr. Abhijit Kulkarni for the Applicant.

CORAM: K.K.TATED, J.
DATED : 23/09/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicants are seeking stay of the operation and implementation of the Judgment and Award dated 21.08.2018 passed by MACT, Raigad-Alibag in MACP No. 86 of 2010 holding that the Respondent original Claimant is entitled to a sum of Rs.5,59,850/- by way of compensation with interest @ 9 % p.a. from the date of filing of the petition till realisation of the entire amount.

3 The learned Counsel for the Applicant submits that the Tribunal relied on fake insurance policy at the time of holding that

Insurance Company is liable to pay compensation. He submits that to prove the fake insurance policy, the Insurance Company examined their witness, Mr. Sonawane, D.W. No.1. Inspite of that the Tribunal held that Insurance Company is liable to pay compensation. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal.

4 It is to be noted that in the present proceeding in accident which occurred on 25.12.2009, the Respondent Claimant sustained several injuries. At that time, he was 35 years old. Because of accident, he was admitted in hospital as indoor patient from 26.12.2009 to 28.01.2010. The Respondent Claimant placed on record documentary evidence to show that he paid sum of Rs.4,78,850/- towards hospital charges.

5 Considering the fact that there is a delay

on the part of Insurance Company to file First Appeal in this court and the Respondent Claimant already spent sum of Rs.4,78,850/- on medical treatment and it is disclosed by the Tribunal in paragraph 56 of the impugned judgment, I am of the opinion that Claimant can be permitted to withdraw some amount during the pendency of the First Appeal.

6 Considering the submissions made by the learned Counsel for the Applicant and averments made in Civil Application, I am satisfied that Applicant has made out a case for allowing this Civil Application.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 19.10.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a), reads thus:

"a) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned Judgment and Award dated 21.08.2018 passed by the Motor Accident Claim Tribunal, Raigad-Alibag in M.A.C.P. 86 of 2010 and disbursal of amount there under, be kindly stayed."

b) If amount is deposited within stipulated time, the Respondent original Claimant is permitted to withdraw sum of Rs.4,78,850/- with accrued interest without furnishing any security.

c) The Tribunal is directed to invest remaining amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.

d) Liberty is granted to the Respondent-Claimant, if he so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

e) Civil Application stands disposed of accordingly.

f) No order as to costs.

(K.K.TATED, J.)