

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2333/2019

in

First Appeal No.9387/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
	Mrs. Ayodhya Patki I/b. Nitesh V. Bhutekar for the Applicant

CORAM : K.K.TATED, J.

DATED : JULY 4, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 This Application is for stay to the operation and implementation of the impugned judgment and award dated 27.04.2018 passed by the MACT, Satara in MACP No.242/2017 holding that Respondent-Claimants are entitled to compensation to the tune of Rs.13,30,000/- along with interest @ 7.5% p.a.

3 The learned counsel for the Applicant submits that, the Respondent has filed Execution Application for

recovery of the amount. She submits that they have already deposited the entire awarded amount along with interest in the Trial Court. She submits that if the entire amount is recovered by the claimants in the Execution Application then nothing will survive in the present proceedings. The learned counsel for the Applicant submits that the Respondent-Claimant has failed to produce any documentary evidence to show that the deceased was earning Rs.7500/- pm on the date of accident. She submits that they have good chance of success in the matter. She submits that till 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. She submits that if the Civil Application is not allowed, irreparable loss will be caused to them.

4 The learned counsel for the Applicant submits that in an accident which occurred on 17.11.2016, claimant No.2 lost his wife Sulabha Suresh Sapkal who was 40 years old. Claimant Nos.1 and 3 are the sons of the deceased. At the time of accident the deceased was

doing tailoring work and also agricultural work and was earning Rs.15000/- p.m. Because of accident, the claimants lost wife/mother and therefore, they filed an application for compensation u/s.166 of the Motor Vehicles Act, 1988. The Trial Court, after considering the evidence on record held that the Respondent-Claimants are entitled to sum of Rs.13,30,000/- by way of compensation.

5 Considering these facts, I am of the opinion that the claimants can be permitted to withdraw some amount without furnishing any security, but subject to outcome of the First Appeal, as there is delay in filing the First Appeal on the part of the Appellant.

6 Hence, following order is passed:

- a. The operation and implementation of the impugned judgment and award dated 27.04.2018 passed by the MACT, Satara in MACP No.242/2017 is stayed till hearing and final disposal of the First Appeal.
- b. Claimant No.1 to 3 each are entitled to withdraw 10% of the compensation

amount with 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.)