

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3368 OF 2019
IN
FIRST APPEAL (ST.) NO. 10811 OF 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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Ayodhya Patki i/b Nitesh Bhutekar for the Applicant.

**CORAM: K.K.TATED, J.
DATED : OCTOBER 15, 2019**

P.C.

1 Heard.

2 By this Civil Application, Applicant Insurance Company is seeking stay of the judgment and award dated 17/09/2017 passed by the MACT, Nashik in MACP No. 313/2014 holding that the Respondents/Original Claimants are entitled a sum of Rs. 3,15,175/- by way of compensation with interest @ 6% p.a.

3 The learned Counsel for the Applicant submits that the Tribunal has failed to consider the quantity of the negligence at the time of deciding the compensation in favour of the Respondents/Claimants. She further

submits that, the compensation awarded by the Tribunal is on higher side. She submits that, they have good chance of success in the present matter.

4. The learned Counsel for the Applicant submits that, if the entire amount is recovered by the Respondents/Claimants by filing execution application then nothing will survive in the present proceeding. She further 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.

5. It is to be noted that, in the present proceeding, in the accident which occurred on 28/08/2012, the Respondent/Original Claimant sustained injuries and he suffered 25% permanent disability. He was in hospital for more than 8 days. He spend near about 2,86,052/- on hospital bills. At that time, he was earning Rs.40,000/- per annum. Hence, the Respondent/Claimant filed application under Section 163A of the Motor Vehicles Act, 1988, claiming the compensation of Rs. 6,00,000/- with interest @ 18% p.a.

6. Considering the fact that, there is delay

on the part of the Applicant to file the present First Appeal before this Court and the Tribunal has awarded compensation under Section 163A of the Motor Vehicles Act, I am of the opinion that, the Claimant can be permitted to withdraw 50% amount without furnishing any security.

7 Hence, the following order is passed:

a. Civil Application is allowed in terms of prayer clause (a) on a condition that the Applicant to deposit the entire awarded amount with interest in Tribunal on or before 16/11/2019, failing which, the Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a) reads thus:

“a. Be pleased to stay the effect, implementation and execution of the said impugned Judgment and award dated 17.09.2017 in MACP No. 313/2014 passed by the Learned MACT, Nashik.”

b. If the amount is deposited within time, the Respondent/Claimant **Sanjay Rambhau Suryawanshi** is entitled to withdraw 50% amount of compensation with accrued interest without furnishing security.

- c. The Tribunal is directed to invest the amount in fixed deposit of any Nationalized bank, initially for a period of one year and same to be continued till further order.
- d. Liberty is granted to the Respondents Claimants, if they so desire, to prefer an appropriate application for withdrawal of 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.)