

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

**CIVIL APPLICATION NO. 1203 OF 2016
IN
FIRST APPEAL (ST.) NO. 12484 OF 2015**

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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D. R. Mahadik for the Applicant.

**CORAM: K.K.TATED, J.
DATED : SEPTEMBER 24, 2019**

PC.

1 Heard learned Counsel for the Applicant.

2 Today the matter is shown on board for speaking to the minutes of order dated 27/08/2019 passed by this Court. On page 2, in para. 7(a), in line no.4 instead of 26/09/3029 it should be 26/09/2019. Rest of the order shall remain as it is.

3. Corrected order reads thus:

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1203 OF 2016
IN
FIRST APPEAL ST.NO.12484 OF 2015***

The New India Assurance Co.Ltd.

...Applicant

vs.

Mrs.Chandrakala Satyam Yadav & Ors.

...Respondents

Mr.D.R.Mahadik for the Applicant.

CORAM : K.K.TATED, J.

DATE : AUGUST 27, 2019

PC.:

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant is seeking stay of the operation and implementation of the Judgment and Award dated 31/1/2014 passed by the MACT, Mumbai in Claim Application No.1328 of 2007 holding that the Respondents original Claimants are entitled to a sum of Rs. 69,000/ by way of compensation with interest @ 7.5% 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 if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survive 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. He submits that they have good chance of success in the present matter.

4 The learned Counsel for the Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest within four weeks from today.

5. It is to be noted that the accident occurred on 15th January 2007. Applicant No.1 sustained injury. In paragraph 17 of the impugned Judgment and Award the Tribunal recorded that the respondentclaimant No.1 has taken treatment as indoor patient in S.A.S.Healthcare Pvt. Ltd from 17.1.2007 to 26.4.2007. Considering this fact, I am of the opinion that the Applicant can

be permitted to withdraw the amount without furnishing security.

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

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 26.9.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a), reads thus:*

“a) That pending the hearing and final disposal of the appeal, the operation of the Judgment and Order dated 31.1.2014 passed by Hon'ble S.M.Bhagat, Member, Motor Accident Claims Tribunal, Mumbai in M.A.C.T. Application No.1328 of 2007 be stayed.”

b) *Liberty is granted to the Claimant Mrs. Chandrakala Satyam Yadav is entitled to withdraw 75% of amount without security but subject to final outcome of the First Appeal.*

c) *If the amount is deposited within stipulated time, the Tribunal is directed to invest the balance amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.*

d) *The Registry is directed to transfer a sum of Rs.25,000/- deposited by the Applicant at the time of filing of First Appeal along with accrued interest, if any, to the MACT, Mumbai in account of Application No. 1328 OF 2007, immediately.*

e) *Civil Application stands disposed of accordingly. No order as to costs.*

(K.K.TATED, J.)