

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1200 OF 2016
IN
FIRST APPEAL (ST) NO. 12487 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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Mr. D.R. Mahadik for the Applicant.

CORAM: K.K.TATED, J.
DATED : 26/08/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 31.01.2014 passed by MACT, Mumbai in Application No. 1326 of 2007 holding that the Respondents original Claimants are entitled to a sum of Rs. 79,285/- 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 the Respondent No.4 Insurance

Company already deposited 50% of compensation in the Tribunal. Statement is accepted.

4 The learned Counsel for the Applicant 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 against the Applicant. He submits that at the time of awarding the compensation, the Tribunal failed to consider the fact that the driver of vehicle was negligent. Hence, the Applicant is not liable to pay the compensation.

5 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 of their share in Tribunal within four weeks from today.

6 It is to be noted that the Tribunal directed parties to pay compensation jointly and severally of rs.79,285/- with 7.5% interest. Therefore, there is no question of depositing part amount.

7 The learned Counsel for the Applicant submits that the sum of Rs.25,000/- deposited by them at the time of filing the First Appeal be transferred to the Tribunal.

8 Considering the submissions made by the learned Counsel for the Applicant and observations made by the Tribunal and as Applicant is ready and willing to deposit the compensation in the Tribunal on or before 21.09.2019, I am satisfied that Applicant has made out a case for allowing this Civil Application.

9 Hence, the following order is passed:

a) The operation and implementation of the impugned Judgment and Award dated 31.01.2014 passed by MACT, Mumbai in Application No. 1326 of 2007 is stayed against the Applicant on condition that Applicant to deposit the compensation in the Tribunal on or before 21.09.2019, failing which Civil Application shall stand dismissed without further reference to the Court.

b) If amount is deposited within stipulated time, the Respondent Claimant is permitted to withdraw 50% of the compensation with accrued interest deposited by the Applicant without furnishing any security but subject to outcome of the First Appeal.

c) The Tribunal is directed to invest the 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.

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. 1326 of 2007, immediately.

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

(K.K.TATED, J.)