

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 777 OF 2015
IN
FIRST APPEAL NO. 211 OF 2015

The New India Assurance Co. Ltd. .. Applicant
Vs.
Mr.Kishorkumar Sakalchand Shah and anr. .. Respondents

Mr.Devendranath S.Joshi, for the Applicant.

CORAM : K.K.TATED, J.

DATE : 20th AUGUST, 2019

P.C. :

. Heard learned Counsel for applicant. None appears for the respondents.

2. By this Civil Application, applicant – Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 22/10/2013 passed by Motor Accident Claims Tribunal, Mumbai in Application No. 113 of 2005 holding that the respondents – claimants are entitled a sum of Rs.3,29,378/-/- with interest @ 7.5 % p.a.

from the date of filing of the application till its realisation.

3. Learned Counsel for the applicant submits that they are ready and willing to deposit entire awarded amount in the Tribunal within a period of 4 weeks from today along with interest.

4. Learned Counsel for the applicant submits that pending the hearing and final disposal of First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the judgment and award dated 22/10/2013 passed by the Tribunal. He submits that if the entire amount is recovered by the respondents- original claimants, then nothing will survive in the present proceedings.

5. Learned Counsel for the applicant submits that the Tribunal awarded sum of Rs.3,29,378/- to the respondents-claimants. They are challenging to the extent of Rs.1,13,000/- only.

6. Considering the submissions made by the learned

Counsel for the applicant and averments made in the Civil Application and as the applicant is ready and willing to deposit the entire awarded amount with interest in Tribunal within 4 weeks from today, I am satisfied that applicant has made out a case for allowing Civil Application. Hence, the following order.

ORDER

i) Civil Application is allowed in terms of prayer clause (a) which reads thus :

“Pending the hearing and final disposal of the appeal, this Honourable Court, by an order of stay, may kindly stay the operation, implementation and execution of the part of the impugned Judgment and Award dated 22/10/2013 to the extent of Rs.1,13,000/- passed by the Motor Accident Claims Tribunal, Mumbai in M.A.C.P. No. 113 of 2005. ”

on condition that applicant to deposit the entire awarded amount along with interest in Tribunal on or before 27/09/2019, failing which Civil application shall stand dismissed without further reference to the Court.

(ii) If the entire amount is deposited within the stipulated time

as stated hereinabove, the Tribunal is directed to invest a sum of Rs.1,13,000/- with interest in a Fixed Deposit account of any Nationalised Bank, initially for a period of one year and the same shall be renewed till further orders.

iii) The respondents - claimants are entitled to withdraw the remaining amount i.e. Rs.2,16,378/- (Rs.3,29,378/- – Rs.1,13,000/-) with accrued interest without furnishing security.

iv) Liberty is granted to the respondents - claimants, if they so desire, to prefer an appropriate application for withdrawal of the remaining amount and that application to be decided on its own merits.

v) Civil Application stands disposed of accordingly.

vi) No order as to costs.

(K.K.TATED, J.)