

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1525/019
IN
FIRST APPEAL (STAMP) NO.11561/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr. S.S.Dwivedi, counsel for applicant.

CORAM : K.K.TATED, J.
DATED : APRIL 26, 2019

P.C.

1. Heard learned counsel for applicant.
2. By this Civil Application, the Applicant-Oriental Insurance Company Limited is seeking stay to the operation and implementation of the judgment and award dated 30.10.2018 passed by the learned Motor Accident Claims Tribunal , Sindhudurg in Motor Accident Claims Petition No.53/2015 holding that the respondent/original claimants are entitled for compensation amount of Rs.6,65,371/- along with interest @ 9% p.a. from the date of presentation of petition till its actual realization.

2. Learned counsel for applicant submits that respondent/claimant filed execution application No.1/2019 before Tribunal for recovery of entire amount. She submits that if the entire amount is recovered in execution application No.1/2019, then nothing will survive in the present proceeding. She submits that they have good chance of success. The tribunal is awarded compensation on higher side. Learned counsel for applicant submits that she received instructions from her client that they are ready to deposit the entire amount on or before 31.05.2019. Statement is accepted.

4. It is to be noted that in the present proceeding in an accident, which occurred on 7.12.2013, respondent/claimant sustained injuries. Doctor certified the injuries are to the extent of 63%. Not only that, the trial court also recorded finding in para no.31 of the impugned order that respondent/original claimant suffered 50% loss of his earning capacity.

5. Considering this fact, I am of the opinion that respondent can be permitted to

withdraw some amount without furnishing any security. Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that applicant/Oriental Insurance Company Limited to deposit entire awarded amount along with interest in tribunal on or before 31.5.2019, failing which the civil application shall stand dismissed without referring to this Court.

Prayer clause (a) reads thus:

“a) Pending the hearing and final disposal of this present appeal, the execution, operation and judgment and order dated 30.10.2018 passed by the learned Motor Accident Claims Tribunal Sindhudurg, in Motor Accident Claims Petition No.53/2015 be stayed in the interest of justice.

b) If the entire amount is deposited within stipulated time, respondent/original claimant Santosh Shankar Rathod is entitled to withdraw 30% amount without furnishing any security, but subject to outcome of first appeal.

c)The tribunal is directed to invest the remaining amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.

d) Liberty granted to the respondent/original claimant to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits.

e) Civil Application stands disposed of accordingly.

f) No order as to costs.

(K.K.TATED, J.)