

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1764/2019

in

First Appeal (ST) No.4115/2019

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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Mr. Akshay S. Deshpande I/b. Pranil
Sonawane for the Applicant

CORAM: K.K.TATED, J.

DATED : OCTOBER 18, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 21.07.2017 passed by the MACT, Mangaon in MACP No.112/2014 holding that the Respondent-Claimants are entitled to sum of Rs.9,64,000/- by way of compensation with interest @ 10% p.a.

3 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application

for recovery of the entire awarded amount. He submits that the next date in the execution proceeding is 22.10.2019. He submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings. He submits that they have good chance of success in the matter. He submits that the Tribunal has erred in awarding the compensation. He submits that the amount awarded is on higher side.

4 It is to be noted that in the present proceedings in an accident which occurred on 19.03.2014 the claimant lost her son Sujay Namdev Yadav. The deceased was 32 years old. He was serving as a Driver to one Shantaram Shankar Kharade and was getting monthly salary of Rs.8000/-. Considering the fact that the claimant No.1 is housewife and she lost her son, aged 32 years and was earning Rs.8000/- pm., I am of the view that the claimant can be permitted to withdraw some amount during pendency of the First Appeal.

5 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 22.11.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) This Hon’ble Court be pleased to allow the present Applicant thereby granting stay on the operation, execution and implementation of the impugned judgment and award dated 21.07.2017 passed by the MACT, Raigad in MACP No.112/2014 till the final disposal of the present First Appeal proceeding.”

b. If amount is deposited within stipulated time as stated hereinabove, claimants are permitted to withdraw following amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

a. Claimant No.1 Jayashri Namdeo Yadav – Rs. 2 lacs.

b. Claimant No.2 Darshan Namdeo Yadav – Rs.1 lacs.

c. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits

e. The Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K.TATED, J.)