

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1820/2017
in
First Appeal No.640/2017

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. Ketan Joshi for the Appellant

CORAM: K.K.TATED, J.
DATED : AUGUST 21, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 22.12.2016 passed by the MACT, Baramati in MACP No.73/2013 holding that the Respondent-Claimant is entitled to compensation of Rs.40,46,840/- with interest @ 9% p.a.

2 The learned counsel for the Applicant submits that as per order dated 17.07.2017 passed by this court they have already deposited the entire awarded amount in the Tribunal. The statement is accepted.

3 The learned counsel for the Applicant submits that if the entire amount is withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings. He submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award.

4 In the present proceedings in an accident which occurred on 31.01.2013 the claimant lost her husband Ashok. Hence, they had filed an application u/s.166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.40 lacs with interest. Claimant Nos.2 and 3 are minor. Claimant No.4 is a brother of the deceased. Considering the fact that the claimant No. 1 is a house wife and she has to maintain her both minor children, I am of the opinion that the claimant can withdraw some amount during pendency of the First Appeal.

5 Hence, following order is passed:

a. Civil Application is allowed in terms of prayer clause (b) which reads:

“(b) Pending the hearing and final disposal of the First Appeal and the Civil Application this Hon’ble Court be pleased to stay the execution, operation and/or implementation of the impugned judgment and award dated 22.12.2016 passed by the MACT at Baramati, District Pune in MACA No.73/2013.”

b. The claimants are entitled to withdraw the amount as mentioned below with accrued interest without furnishing any security but subject to outcome of the First Appeal.

Claimant No.1 Sunita Ashok Khade
– 20%

Claimant No.4 Indubai Vithoba
Khade – 10%

c. 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

d. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)