

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3643/2018
in
First Appeal No. 1094/2018

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. S. Joshi for the Applicant

CORAM : K.K.TATED, J.
DATED : APRIL 25, 2019

P.C.

Heard. By this Civil Application, the Applicant seeks stay to the operation and implementation of the judgment and award dated 09.11.2017 passed by the MACT, Mumbai in MACP No.2678/2010 holding that the Respondent - claimants are entitled to sum of Rs.5,02,000/- by way of compensation with interest @ 7.5% p.a.

2 The learned counsel for the Applicant submits that the Respondent - claimants have filed Execution Application No.26/2019 for recovery of the amount. He submits that if the entire amount is withdrawn by the claimant nothing will survive in the present proceedings. The learned counsel for the

Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire awarded amount in the Tribunal on or before 31.05.2019.

3 In the present proceedings in an accident which occurred on 12.09.2010 claimant No.1, who is housewife, lost her husband and as claimant Nos.2 and 3 are parents of the deceased who are senior citizen, I am of the opinion that the claimants may be permitted to withdraw some amount pending the appeal.

4 Hence, the following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) which is reproduced below, subject to the Applicant depositing the entire awarded amount in the Tribunal on or before 31.05.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

“(a) Pending the hearing and final disposal of the appeal, this Hon’ble Court, by an order of stay, may kindly stay the operation, implementation and execution of the impugned judgment and award dated 09.11.2017 passed by the MACT, in MACP No.2678/2010.”

b. The claimant No.1 is entitled to withdraw 15% of the awarded amount and claimant Nos.2 and 3 are entitled to withdraw 5% each, of the total amount deposited by the Insurance Co. without furnishing any security but subject to outcome of the 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 claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

e. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)