

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1029/2019
in
First Appeal No. 284/2019

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. 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 Claim Application No.2679/2010 holding that the Respondent - claimants are entitled to compensation of Rs.5,30,800/- with 7.5% p.a. interest.

2 The learned counsel for the Applicant submits that the Respondent - claimants have filed Execution Application No.25/2019. He submits that if the entire awarded amount is withdrawn by the Respondent - claimant nothing will survive in the present proceedings. He submits that the Applicant has good chance of success.

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

3 In an accident, which occurred on 12.09.2010, claimant No.1 lost her husband and claimant No.7 her son. Because of that, the claimant had made an Application u/s.166 of the Motor Vehicles Act, 1977 for compensation of Rs.4 lacs.

4 Considering the evidence on record and also considering the fact that at the time of filing the claim petition, the claimant Nos.2 to 6 were minor and claimant No.7 was a senior citizen, the Tribunal has awarded sum of Rs.5,30,800/- with 7.5% p.a. interest. The Trial Court held that the claimant No.1 is entitled to 40% of the total compensation and claimant Nos.2 to 7 are entitled to 10% each of the total compensation.

5 Considering these facts, I am of the opinion that the claimants may be allowed to withdraw some amount with accrued interest without furnishing any security, but subject to outcome of the First Appeal.

6 Hence, the following order is passed:

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

(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, Mumbai in MACP No.2679/2010.

b. The claimant No.1 is entitled to withdraw 30% of the total compensation 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.)