

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3849/2017
in
First Appeal No.1314/2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Sidhesh Adhatrao I/b. D. B. Law for the Applicant	

CORAM : K.K.TATED, J.
DATED : JUNE 28, 2019

P.C.

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

2 By this Civil Application, the Applicant Insurance Co. is seeking stay to the operation and implementation of the impugned judgment and award dated 10.10.2016 passed by the MACT Daman in MACP No.10/2014 holding that the Respondent-Claimants are entitled to sum of Rs.5,25,000/- by way of compensation with 8% p.a. interest.

3 The learned counsel for the Applicant submits that the Respondent-

Claimants filed Execution Application for recovery of the amount. He submits that if the entire amount is recovered by the claimants 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 in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award.

4 It is to be noted that in the present proceedings in an accident which occurred on 04.02.2014 the Respondent lost Lalitaben Thakorbhai Bhandari i.e. wife of claimant No.1. Hence, the Respondent claimant had filed an application u/s.166 of the Motor Vehicles Act, 1988 for compensation of Rs.6 lacs, wherein the Tribunal has awarded compensation of Rs.5,25,000/-.

5 Considering these facts, I am of the view that the claimant No.2 Divyaben Thakorbhai Bhandari can be permitted to withdraw some amount during pendency of the First Appeal.

6 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 31.07.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus

“(a) Pending the hearing and final disposal of this Appeal this Hon'ble Court be pleased to stay the effect and implementation of the judgment and order 10th October, 2019 passed by the learned Member of Motor Accident claims Tribunal, Daman in Claim application No.10 of 2014”.

b If amount is deposited within stipulated time as stated hereinabove the claimant Divyaben Thakorbhai Bhandari is permitted to withdraw 25% of the awarded amount with accrued interest without furnishing any security, subject to outcome of the First Appeal.

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. No order as to costs.

f Place the First Appeal on board on 12.07.2019, for admission.

(K.K.TATED, J.)