

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3194/2017
in
First Appeal (ST) No.13126/2017

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. Abhijit P. Kulkarni for the Applicant

CORAM : K.K.TATED, J.
DATED : JULY 15, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the operation and implementation of the impugned judgment and award dated 12.08.2016 passed by the MACT Mumbai in application No.1275/2008 holding that the Respondent-Claimant is entitled to compensation of rs.1,06,600/- with interest @ 7.5% p.a.

2 The learned counsel for the Applicant submits that the Tribunal has awarded compensation on higher side. He submits that they have good chance of success in the matter. He submits that pending the hearing and final disposal of the First Appeal, the operation and

implementation of the impugned judgment and award be stayed. He submits that if stay is not granted entire amount will be recovered by the Respondent-Claimant. The learned counsel for the Applicant submits that they received instructions from their client that they are ready and willing to deposit the entire awarded amount in the Tribunal within four weeks from today. The undertaking is accepted.

3 The learned counsel for the Applicant submits that the sum of Rs.25000/- deposited by them at the time of filing the First Appeal be transferred to the Tribunal.

4 It is to be noted that in an accident which occurred on 02.04.2003 the Respondent sustained injury. The award shows that the Applicant has spent near about Rs.15000/- for her medical treatment. Considering these facts, the Tribunal has awarded sum of Rs.1,06,600/- by way of compensation with interest.

5 It is to be noted that there is delay in filing the First Appeal. Hence, I am of the view that the Respondent-Claimant can

be permitted to withdraw 50% of the awarded amount with accrued interest without furnishing any security but subject to outcome 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 16.08.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned judgment and award dated 12.08.2016 passed by the MACT, Mumbai in MACP No.1275/2008 and disbursal of amount thereunder, be kindly stayed.”

b. The Respondent-Claimant Nazima Abdul Gani Hajoo is entitled to withdraw 50% of the compensation with accrued interest 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 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 amount of Rs.25000/- deposited by the Appellant at the time of filing the First Appeal be transferred to the Tribunal along with accrued interest.

f. The Civil Application stands disposed of accordingly.

g. No order as to costs.

(K.K.TATED, J.)