

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

Civil Application No.170/2019

in

First Appeal No.45/2019

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| 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. P. A. Narayanan for the Appellant

**CORAM : K.K.TATED, J.**  
**DATED : JULY 25, 2019**

**P.C.**

1 Heard. By this Civil Application, the Applicant is seeking stay of the judgment and award dated 30.01.2018 passed by the MACT, Barshi in MACP No.45/2016 holding that the Respondent-Claimants are entitled to compensation of Rs.7,86,000/- with interest @ 8% p.a.

2 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application wherein the executing court has issued attachment warrant. He submits that if the entire amount is recovered by the claimants then nothing will survive in the present proceedings. He submits that they have good chance of success in the matter. He submits that the offending vehicle was not involved in the

accident and hence, there is no question of payment of compensation by the Insurance Co.

3 The learned counsel for the Applicant submits that he received instructions from their client that they are ready and willing to deposit the entire awarded amount in the Tribunal on or before 16.08.2019. The statement is accepted.

4 In the present proceedings in an accident which occurred on 31.12.2014 the claimant lost their son Malhari Kanta Nalavade who was earning near about Rs.50,000/- p.a. Hence, the claimant had filed claim petition u/s.166 of the Motor Vehicles Act, 1988 for compensation of Rs.13 lacs with interest. The Tribunal, considering the evidence on record held that the Respondent-Claimants are entitled to compensation of Rs.3,93,000/- with interest @ 8% p.a.

5 Considering the fact that the Respondent-Claimant lost their son in the accident and both the claimants are labourer, I am of the opinion that the claimants can be permitted to withdraw some amount pending the hearing and

final disposal 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 20.08.2019, 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 the appeal this Hon'ble Court be pleased to stay the operation of the and impugned judgment and award dated 30.01.2018 passed by the Hon'ble Member, MACT, Barshi partly allowing the Claim petition bearing No.45 of 2016 and directing this Applicant and the Respondent No.3 herein to pay jointly and severally the total amount of Rs.7,86,000/- (Rupees Seven Lakhs Eighty Six Thousand only) with interest at the rate of 8% p.a. from the date of the application till realisation of the entire amount.”*

b. If the amount is deposited within stipulated time as stated hereinabove Respondent No.1 Kanta Dattu Nalavade and Respondent No.2 Ms. Shantabai Kanta Nalavade are entitled to withdraw

25% each of compensation amount 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 Civil Application stands disposed of accordingly.

f. No order as to costs.

**(K.K.TATED, J.)**