

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO.4298 OF 2018

IN

FIRST APPEAL (ST) NO.13336 OF 2018

Bombay Electric Supply and Transport
Undertaking

.. Applicant

V/s.

Ashok Dattaram Chawan and Anr.

.. Respondents

Ms. Kanchan Anchan I/b M/s.M.V.Kini and Co. for the applicant

CORAM: K.K. TATED, J
DATED : MARCH 22, 2019

P.C. :

1 Heard the learned counsel for the applicant.

2 By this Civil Application, applicant is seeking stay of the operation and implementation of the award dated 23.02.2017 passed by MACT, Mumbai in Claim Application No.952 of 2010 stating that respondent original claimants are entitled compensation of Rs.13,65,000/- with 9% interest from the date of filing of application till realisation.

3 The learned counsel for the applicant submits that respondent original claimant filed execution application. She submits that next date in the execution application is

25.03.2019. She submits that if entire amount is recovered by the respondent claimant in execution application then nothing will survive in the present proceeding.

4 The learned counsel for the applicant submits that they have good chance of success in the Appeal. She 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 till the hearing and final disposal of the First Appeal.

5 The learned counsel for the applicant submits that she received instruction from the applicant that they are ready and willing to deposit the awarded amount in the Tribunal within one week from today. Statement is accepted.

6 Considering the submissions made by the learned counsel for the applicant and as applicants are ready and willing to deposit entire awarded amount in the Tribunal, I am satisfied that the applicant has made out a case for allowing the Civil Application but at the same time, respondent who lost their son is also entitled to withdraw that amount without furnishing any security at present. Hence, following order is passed:

a. Operation and implementation of the impugned judgment and award dated 23.02.2017 passed by MACT, Mumbai in Claim Application No.952 of 2010 is stayed till the hearing and final disposal of the Appeal on the condition that applicant to deposit entire awarded amount in the Tribunal on or before 30.03.2019, failing which Civil Application shall stand dismissed without

referring back to the court.

b. If amount is deposited within stipulated time as stated hereinabove, applicant original claimant Ashok Dattaram Chavan and Arti Ashok Chavan is entitled to withdraw sum of Rs.2 lacs with accrued interest respectively without furnishing any security but subject to outcome of the First Appeal.

c. Tribunal is directed to invest remaining amount in Fixed Deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

d. Liberty granted to the respondent claimant if they so desire they can prefer appropriate application for withdrawal of the remaining amount and that will be decided on its own merits.

e. Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K. TATED, J.)