

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.4293/2018
in
First Appeal No.1259/2018

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 Applicant

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

P.C.

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

2 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 30.01.2018 passed by the MACT, Barshi in MACP No.51/2016 holding that the Respondent-Claimant is entitled to sum of Rs.63,154/- by way of compensation with interest @ 8% p.a. from the date of application till realisation.

3 The learned counsel for the Applicant submits that the Tribunal has

failed to consider the fact that the offending vehicle was not involved in the accident which occurred on 31.12.2014. Therefore, the Insurance Co. is not liable to pay any compensation. He submits that they have good chance of success in the matter. He submits that if the entire amount is recovered by the claimants then nothing will survive in the present proceedings. He submits that the claimant has already filed Execution Application. 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 till hearing and final disposal of the First Appeal.

4 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.

5 It is to be noted that in the accident in question the Respondent claimant sustained grievous injury. He was indoor patient from 31.12.2012 to 16.01.2013.

He spent near about Rs.1 lacs for medical treatment. Hence, the claimant had filed petition u/s.166 of the Motor Vehicles Act, 1988 for grant of compensation of Rs.8 lacs.

6 Considering the fact that the Respondent-Claimant was indoor patient, I am satisfied that the Respondent can be permitted to withdraw some amount during pendency of the First Appeal.

7 Hence, following order is passed:

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

“(b) Pending the hearing and final disposal of the Appeal the execution proceedings of impugned judgment and award dated 30.01.2018 passed by the Hon’ble Member, MACT, Barshi allowing the claim petition bearing No.51/2016 be stayed.”

b. If amount is deposited within stipulated time as stated hereinabove, the Respondent-Claimant Brijeshkumar Lalataprasad Chourasiya is entitled to withdraw 25% 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 Civil Application stands disposed of accordingly.

f. No order as to costs.

(K.K.TATED, J.)