

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2477/2019
in
First Appeal (ST) No.12540/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Rahul Mehta I/b. KMC Legal Venture for the Applicant	

CORAM : K.K.TATED, J.
DATED : JULY 15, 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 impugned judgment and award dated 14.12.2017 passed by the MACT Pune in MACP No.72/2014 holding that the Respondent-Claimants are entitled to sum of Rs.30,53,400/- by way of compensation with interest @ 9% p.a..

3 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application

for recovery of the amount. He submits that if the entire amount is recovered by the claimants then nothing will survive in the present proceedings.

4 The learned counsel for applicant submits that the Tribunal has awarded the compensation on higher side. Apart from that the driver of the offending vehicle was not holding valid license. They have placed on record, the certified copy of the document to that effect, as recorded by the Tribunal in para 16 of the impugned judgment and award. He submits that apart from that, they made an application to the MACT for issuing witness summons, to verify the said document which was rejected by the Tribunal. For that rejection, they raised ground in the First Appeal also.

5 The learned counsel for the Applicant submits that they have good chance of success in the matter. He submits that if the entire amount is recovered by the claimants in execution, then nothing will survive in the present proceedings. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the the impugned

judgment and award till hearing and final disposal of the First Appeal.

6 It is to be noted that in an accident which occurred on 03.10.2013 the Respondent-Claimant lost her son Sachin who was 27 years old. He was post - graduate and also doing Ph.D. He was selected in All India Coordinating Unit (Small Millets) Improvement Project, GKVK Campus Bangalore. He was getting salary of Rs.29,900/- pm. Hence, the Respondent-Claimant had filed application u/s. 166 Motor Vehicles Act, 1988 for compensation to the tune of Rs.50 lacs.

7 Considering the fact that the Respondent-Claimant is a housewife and she has lost her son in the accident and as there is delay on the part of the applicant in filing the present appeal, I am of the opinion that the claimant can be permitted to withdraw some amount.

8 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 23.08.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) That this Hon'ble Court be pleased to stay the execution judgment and award dated 14.12.2017 passed in MACT application No.72/2014 by Learned Member R.H.Mohammad, MACT, Pune @ Pune.”

b. The Respondent claimant Nos.1 Laxmibai Sitaram Jadhav 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.)