

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.387/2015
in
First Appeal No.149/2015

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. D. S. Joshi for the Applicant

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 6, 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 17.01.2014 passed by the MACT, Mumbai below ex 2 i.e. Application u/s. 140 of the Motor Vehicles Act, 1988 directing the Applicant to pay sum of Rs.50,000/- to the Respondent-Claimants.

2 The learned counsel for the Applicant submits that the deceased was travelling in the goods vehicle and these facts are not considered by the Tribunal while passing the impugned judgment and award. He submits that they have good chance of success.

3 The learned counsel for the Applicant submits that if entire amount is recovered by the Respondent-Claimants by filing Execution Application, nothing will survive in the present proceedings. He submits that the Applicants are ready and willing to deposit the entire awarded amount along with interest in the Tribunal within four weeks from today. The statement is accepted.

4 Considering the submissions made by the learned counsel for the Applicant and as the Tribunal has failed to consider the fact that the deceased was travelling in the goods vehicle and therefore there was breach of the terms and conditions of the insurance policy, 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 05.10.2019, 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 by an order of stay, may kindly stay the operation, implementation and execution of the impugned award dated 17.01.2014 passed by MACT, Mumbai below Exhibit- 2 i.e. application under section 140 in MACP No.208/2012.”

b. The Tribunal is directed to invest the remaining award 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.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits.

d. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)