

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 1576/2019
in
First Appeal (ST) No. 13598/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
---	----------------------------

Mr. D. S. Joshi for the Applicant

CORAM : K.K.TATED, J.
DATED : MAY 3, 2019

P.C.

Pursuant to the praecipe filed by the advocate 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 23.03.2018 passed by the MACT in MACP No.414/2014.

3 The learned counsel for the Applicant submits that the Respondent - claimant has filed Execution Application No.305/2018 for recovery of the compensation amount. He submits that if the entire amount is recovered in the Execution Application,

then nothing will survive in the present proceedings. He submits that the Tribunal has awarded sum of Rs.27,94,800/- by way of compensation along with 8% .a. interest, which is on higher side. He submits that pending the hearing and final disposal of the First Appeal, the operation and implementation of the judgment and award be stayed. He submits that they are ready and willing to deposit entire awarded amount in the Tribunal on or before 07.06.2019. The statement is accepted.

4 It is to be noted that in the present proceedings in an accident which occurred on 22.12.2017 the claimant No.2 lost her son. Considering the evidence on record, the Tribunal held that the Respondent - claimants are entitled to sum of Rs.27,94,800/- towards compensation.

5 Considering these facts, I am of the opinion that the Respondent - claimants may be permitted to withdraw some amount without furnishing any security but subject to outcome of the First Appeal.

6 Hence, the following order is passed:

a Civil Application is allowed in terms of prayer clause (b), subject to the Applicant depositing the entire awarded amount in the Tribunal along with interest, costs, if any, on or before 07.06.2019, 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, this Hon’ble Court, by an order of stay, may kindly stay the operation, implementation and execution of the part of the impugned judgment and award dated 23.03.2018 passed by the MACT Mumbai in MACP No.414/2014.”

b Claimant No.2 is entitled to withdraw sum of Rs.5 lacs with accrued interest, without furnishing any security but subject to outcome of the First Appeal.

c Respondent Nos.3 and 4 are entitled to withdraw sum of Rs. 2 lacs each, with accrued interest, without furnishing any security but subject to outcome of the First Appeal.

d The Tribunal is directed to invest the remaining amount in a fixed deposit of any Nationalized Bank, initially for a period of

one year and same shall be renewed from time to time till further orders.

e 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.

f Civil Application stands disposed of accordingly.

(K.K.TATED, J.)