

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLIATION NO.1981/2019
IN
FIRST APPEAL ST NO.14532/2019

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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Ms. Shalini Shankar for the applicant.

CORAM : K.K.TATED, J.
DATED : JUNE 10, 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 insurance company seeks stay to the operation and implementation of the impugned judgment and award dated 10.12.2018 passed by the MACT, Thane in MACP No.78/2008 holding that the respondent claimants are entitled to sum of Rs.23,65,000/- by way of compensation along with interest @ 8% p.a.

3 The learned counsel for the applicant submits that the respondent claimants have

filed execution application to recover the awarded amount. She submits that if the entire amount is recovered by the respondent claimants, nothing will survive in the present proceedings.

4 The learned counsel for the applicant submits that the Tribunal has awarded the compensation on higher side. She submits that the Tribunal has failed to consider the fact that, the respondent claimants have not brought on record any evidence to prove the monthly income of Rs.10,000/- of the deceased. She submits that for want of income, the Tribunal ought to have considered the income of the deceased @ Rs.3000/- p.m. She submits that till hearing and final disposal of the first appeal, this Hon'ble Court be pleased to stay the operation and implementation of the judgment and award passed by the Tribunal.

5 The learned counsel for the Applicant submits that she received instructions from her client that they will deposit the entire awarded amount in the Tribunal on or before 24.06.2019. The statement is accepted.

6 In the present proceedings, in an accident which occurred on 31.12.2017 the respondent claimants lost Arif Yakum Shaikh. The Tribunal, after considering the evidence on record held that the respondent - claimants are entitled to sum of Rs.23,65,000/- by way of compensation. It is to be noted that the cause title of the civil application shows that claimant Nos.1 and 3 are doing house work and claimant No.2 is studying.

7 Considering these facts I am of the opinion that the respondents may be permitted to withdraw some amount without furnishing any security.

8 Hence, the following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) which is reproduced below, subject to the applicant depositing the entire awarded amount in the Tribunal within a period of six weeks from today failing which the civil application shall stand dismissed without further reference to the court.

“(a) Pending the hearing and final disposal of the present first appeal, this Hon’ble Court be pleased to stay

the effect, implementation and or execution of the impugned judgment and order dated 10/12/2018 passed by the Hon'ble Court of member, in Motor Accident Claim petition No.78 of 2008."

b. If the amount is deposited as stated hereinabove, the claimant Nos.1 and 3 are entitled to withdraw sum of Rs.4 lacs each 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 of any Nationalized Bank, initially for a period of one year which shall be renewed from time to time till further orders.

d. Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)