

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2760 OF 2019
IN
FIRST APPEAL (ST) NO. 14587 OF 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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Mr. Sarthak Diwan for the Applicant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 27.11.2018 passed by MACT, Kolhapur in MACP No. 554 of 2009 holding that the Respondents original Claimant is entitled to a sum of Rs. 2,46,400/- by way of compensation with interest @ 7% p.a.

3 The learned Counsel for the Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest

within four weeks from today. Statement is accepted.

4 In the present proceeding, the accident occurred on 22.06.2009. The Respondent sustained several injuries. At that time, she was 8 years old. In claim petition, Respondent Claimant specifically stated that she incurred medical expenses of Rs.40,000/-. Hence, the Respondent Claimant filed claim petition under Section 166 of M.V. Act 1988 claiming compensation of Rs.4,30,000/- but they restricted their claim to Rs.1,00,000/- only. The Tribunal awarded sum of Rs.2,46,400/- by way of compensation with interest.

5 Considering the fact that the Respondent original Claimant was minor on the date of accident and she sustained several injuries, I am of the opinion that she can be permitted to withdraw the amount without furnishing any security, but subject to outcome of the First Appeal.

6 In view of statement made by the learned Counsel for the Applicant that they are ready and willing to deposit the entire awarded amount, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (b) on condition that

Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 16.11.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (b), reads thus:

“b) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned Judgment and Award dated 27.11.2018 passed by the Motor Accidents Claim Tribunal, Kolhapur in M.A.C.P. No. 554 of 2009 and disbursal of amount there under, be kindly stayed.”

b) If amount is deposited within stipulated time, Respondent original Claimant through her guardian is permitted to withdraw 30% amount with interest without furnishing any security but subject to outcome of the First Appeal.

c) The Tribunal is directed to invest the remaining amount in fixed deposit of any Nationalised Bank, initially for a period of one year and same to be continued till further order.

d) Liberty is granted to the Respondent-Claimant, if she so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

e) Civil Application stands disposed
of accordingly.

f) No order as to costs.

(K.K.TATED, J.)