

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3130 OF 2019
IN
FIRST APPEAL NO. 1373 OF 2019**

IFFCO-TOKIO General Insurance Co. Ltd.

Through its Authorized Representative

Sunny Bhandary

..... Applicant

V/s.

Mr. Aakash Raju Kamble & Ors.

..... Respondents

.....

Ms. Deepika Prabhala i/b Res Juris for Applicant.

.....

CORAM : K.K.TATED, J.

DATED : 11th October, 2019

P.C.

1. Heard Learned Counsel for Applicant.
2. Advocate for Applicant submits that, the Respondents/Claimants filed execution application for recovery of awarded amount. Hence, there is an urgency.
3. Advocate for Applicant submits that, by this Civil Application they are seeking stay of operation and implementation of impugned Judgment and Award dated 15th March, 2019 passed by Motor Accident Claims Tribunal Mumbai in Application No. 2503 of 2013 holding that, the respondents/claimants are entitled sum of Rs. 1,18,730/- by way of compensation with interest @ 7.5% p.a.

4. The Learned Counsel for Applicant submits that if entire amount is recovered by the Respondents/Claimants, in execution application, then nothing will survive in the present proceeding. He submits that in the present proceeding the insurance company is not liable to pay any compensation because the offending vehicle was not insured with them. She further submits that, she received instructions from her client, they are ready to deposit entire awarded amount with interest within four weeks from today.

5. Considering the submissions made by the learned counsel for the applicant and averments made in Civil Application, I satisfy that, Applicant has made out a case for allowing this Civil Application. Hence, the following order :

ORDER

a) Civil Application is allowed in terms of prayer clause 'b'

which reads thus :

“Pending hearing and final disposal of the first appeal the execution, implementation and operation of judgment and award dated 15.03.2019 passed by the Learned Member, Motor Accident Claims Tribunal, Mumbai, in MACP No. 2503 of 2013 may kindly be stayed.”

On conditions that, applicant to deposit the entire awarded amount with interest in Tribunal on or before 11th November, 2019 failing which Civil Application shall stands dismissed without referring back to the Court.

- b) If amount is deposited within time, the Tribunal is directed to invest the entire awarded amount in Fixed Deposit of any Nationalized Bank initially for a period of one year and same to be continued till further order.
- c) Liberty is granted to the respondents/claimants, if he so desires to prefer an application for withdrawal of the amount and that will be decided on its own merits.
- d) Civil Application stands disposed of accordingly.
- e) No order as to costs.

(K.K.TATED, J.)