

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2479/2019
in
First Appeal (ST) No.16219/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Rahul Mehta I/b KMC Legal Venture for the Applicant	

CORAM : K.K.TATED, J.
DATED : JULY 15, 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 is seeking stay to the operation and implementation of the impugned judgment and award dated 15.12.2017 passed by the Motor Accident Claims Tribunal, Karad in MACP No.185/2011 holding that the Respondent-Claimants are entitled to sum of Rs.13,08,000/- by way of compensation with interest @ 7% p.a.

3 The learned counsel for the

Applicant submits that the Respondent-Claimant has filed Execution Application. The learned counsel for the Applicant submits that they received instructions from their client that they are ready and willing to deposit the entire awarded amount in the Tribunal within three weeks from today. The undertaking is accepted.

4 It is to be noted that in an accident which occurred on 22.05.2011 the Respondent-Claimant sustained fracture to mid shaft femur right side, fracture to tibia/fibula right side and crush injury to right foot and also his right thigh has been amputated. The Doctor has certified disability to the extent of 75% but the court has accepted it 50%. Considering these facts and as there is delay of one year in filing the First Appeal, I am of the opinion that the Respondent-Claimant can be permitted to withdraw 50% of the amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

5 Hence, 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 09.08.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) That this Hon'ble Court be pleased to stay the effect and implementation of the judgment and award dated 15.12.2017 passed in MACT application No.185/2011 by Shri C.P. Gaddam, Member, MACT, Karad, Dist. Satara”.

b. The Respondent-Claimant Bhavesh Atmaram Zore is entitled to withdraw 50% of the amount 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 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.

d. 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

e. The Civil Application stands disposed of accordingly.

f No order as to costs.

(K.K.TATED, J.)