

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3146/2019
in
First Appeal (ST) No.16459/2019

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 : SEPTEMBER 18, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application for recovery of the entire awarded amount. Hence, there is urgency.

3 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the judgment and award dated 14.09.2018 passed by the MACT Nasik in MACP No.202/2015 holding that the Respondent-Claimants are entitled to

sum of Rs.12,34,744/- by way of compensation with interest @ 8% p.a.

4 The learned counsel for the Applicant submits that she received instructions from their client that they are ready and willing to deposit the entire awarded amount along with accrued interest, if any, in the Tribunal within two weeks from today. The statement is accepted. She submits that pending the hearing and final disposal of the First Appeal this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award. She submits that if the entire amount is recovered by the Respondent-Claimant, then nothing will survive in the present proceedings.

5 It is to be noted that in the present proceedings in an accident which occurred on 04.01.2015 the claimant No.1 lost her husband Vikas who was 40 years old and he was earning near about Rs.10,000/- pm. The claimant Nos.2 and 3 are parents of the deceased.

6 Considering the fact that the claimant No.1 is housewife and claimant

Nos.2 and 3 are senior citizen, I am of the opinion that the claimants can be permitted to withdraw some amount during pendency of the First Appeal.

7 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 05.10.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) Pending the hearing and final disposal of the present First Appeal, this Hon’ble Court be please to stay the effect, implementation and or execution of the impugned judgment and order dated 14.09.2018 passed by the Hon’ble Court of Member, MACP No.202/2015.

b. The Respondent-Claimants are entitled to withdraw the following amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

a. Pratibha Vikas Bhat Rs.5,00,000/-

b. Narendra Damodhar Bhat -

Rs.50,000/-

c. Mrs. Hansa Narendra Bhat -

Rs.50,000/-

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.)