

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.2220/2019

in

First Appeal (ST) No.17151/2019

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Mr. Nikhil Mehta I/b. KMC Legal
Venture for the Applicant

CORAM : K.K.TATED.J.
DATED : JUNE 24, 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 15.12.2018 passed by the 1st Labour court, Thane in application (WCA) No.415/C/85/2015. holding that the Respondent-Claimant is entitled to sum of Rs.5,54,891/- by way of compensation with interest and penalty.

3 The learned counsel for the Applicant submits that the Respondent-Claimant has

filed Execution Application for recovery of the entire amount. He submits that they have already deposited the entire awarded amount as per the impugned judgment and award. He submits that if the entire amount is withdrawn in the Execution Application, nothing will survive in the present proceedings.

4 The learned counsel for the Applicant submits that they are challenging the impugned judgment and award on the ground that, at the time of deciding compensation, the Tribunal has failed to consider the fact that the Respondent-Claimant has failed to prove disability to the extent of 58%. He submits that during pendency of the present First Appeal, the operation and implementation of the impugned judgment and award be stayed and the Labour Court be directed to invest the awarded amount in the fixed deposit account.

4 It is to be noted that in the present proceedings in an accident which occurred on 25.09.2014 the Respondent-Claimant met with an accident and sustained several injuries. At that time, he was drawing sum of Rs.8000/- by way of salary. Because of

accident, he was hospitalized as indoor patient from 25.09.2014 to 06.10.2014. At that time he was 30 years old. Even. Dr. Naresh Khanna certified that the claimant has suffered permanent partial disability to the extent of 58% and issued disability certificate Exhibit- 17. In any case, there is delay of 123 days in filing the First Appeal.

5 Considering these facts, I am of the opinion that the claimant may be allowed to withdraw 50% of the awarded amount with interest without furnishing any security, but subject to outcome of the First Appeal.

6 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) which reads thus:

“(a) this Hon'ble Court be pleased to stay the implementation, operation of the order dated 15.12.2018 passed in application (WCA) No.415/C-85/2015 by Commissioner for Employees Compensation & Judge First Labour Court, Thane.”

b. The Respondent-Claimant Ranhul Kumar Hiralal Bunkar is entitled to withdraw 50% of the awarded amount along with accrued interest without furnishing

any security, subject to outcome of the First Appeal.

c. The Labour Court 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 he 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.)