

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 3595 OF 2017
IN
FIRST APPEAL NO. 1260 OF 2017

IFFCO TOKIO General Insurance Co. Ltd. ... Applicant
Vs.
Savita Anil Sable & Ors. ... Respondents

Mrs. Varsha Chavan, Advocate for the applicant.

CORAM: **K.K. TATED, J.**
DATE: **20th June, 2019**

P.C.:

Heard the learned counsel for the applicant.

2. By this Civil Application, the Applicant-insurance company is seeking stay to the operation and implementation of the judgment and award dated 31st August, 2016 passed by the Motor Accident Claims Tribunal, Thane in Motor Accident Claims Petition No. 139 of 2014 holding that the respondents-claimants are entitled amount of Rs.12,00,084/- by way of compensation with 8% interest.

3. Learned counsel for the Applicant submits that if entire amount amount is recovered by the respondents/original claimants by filing execution application, then nothing will survive in the present first appeal. She submits that they have good chance of success in the

present proceeding. She submits that in the interest of justice, pending the present proceedings, the operation and implementation of the impugned judgment and award be stayed.

4. In the present proceedings, in accident, which occurred on 2nd January, 2014, Claimant no. 1 lost her husband and Claimant no. 4 lost her son. It is to be noted that in the cause title it shows that Claimant nos. 2 and 3 were minor at the time of filing Claim Petition. Considering the fact that Claimant No. 1 have to take care of minor children, I am of the opinion that they can be permitted to withdraw some amount during the pendency of the present First Appeal. Hence, following order is passed:

ORDER

- (i) Civil Application is allowed in terms of prayer clause (a), which reads as follows, thus on a condition that the Applicant-Insurance company to deposit the entire awarded amount along with interest in the Tribunal on or before 20th July, 2019, failing which, Civil application shall stand dismissed without referring back to the Court.

“(a) That pending hearing and final disposal of this appeal, the implementation and/or the execution of the Award dated 31.08.2016 passed by Shri K.D. Vadane, Member, MACT, Thane in MACT

Application No. 139 of 2014 be kindly stayed.”

- (ii) If entire amount is deposited by the Applicant-Insurance Company within stipulated time as stated hereinabove, Claimant no. 1-Smt. Savita Anil Sable is entitled to withdraw Rs.3,00,000/- with accrued interest and Claimant no. 4-Asarabai Sitaram Sable is entitled to withdraw Rs.1,00,000/- with accrued interest without furnishing any security but subject to outcome of the First Appeal;
- (iii) The Tribunal is directed to invest the remaining amount in a fixed deposit of any Nationalized Bank, initially, for a period of one year and same to be continued till further orders;
- (iv) Liberty is granted to the Respondents-Original Claimants, if they so desire, to prefer an application for withdrawal of the further amount and that application to be decided on its own merits;
- (v) Civil Application stands disposed of accordingly with no order as to costs.

(K.K. TATED, J.)