

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2871 OF 2017
IN
FIRST APPEAL NO. 1042 OF 2017

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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Mr. Shrikant Dange for the Applicant.

CORAM: K.K.TATED, J.
DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicants are seeking stay of the operation and implementation of the Judgment and Award dated 30.11.2016 passed by MACT, Nashik in MACP No. 199 of 2012 holding that the Respondents original Claimants are entitled to a sum of Rs. 4,41,000/- by way of compensation with interest @9% p.a.

3 The learned Counsel for the Applicant submits that the Tribunal directed to Insurance Company only to pay compensation. He submits that there is no

order against the owner of the offending vehicle. He submits that on this ground only the impugned judgment is required to be set aside. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survive in this First Appeal. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal.

4 The learned Counsel for the Applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest within three weeks from today.

5 In the present proceeding, in the accident which occurred on 20.02.2011 the Claimants lost their son, who was 20 years old. He was doing labour work and earning Rs.200/- per day.

6 Considering this fact, I am of the opinion that Respondents original Claimants are permitted to withdraw some amount without

furnishing security but subject to outcome of the First Appeal.

7 Hence, the following order is passed:

a) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit the entire awarded amount with interest in the Tribunal on or before 07.11.2019, failing which 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 above appeal, the judgment and award dated 30th November 2016 passed by Member, Motor Accident Claims Tribunal, Nashik in MACP No. 199/2012 be stayed”

b) If amount is deposited within stipulated time, Respondent original Claimants Namdeo Vitthal Bendkule (Bendkoli) and Hirabai Namdeo Bendkule (Bendkoli) are entitled to withdraw sum of Rs.1,00,000/- each 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 fixed deposit of any Nationalised Bank, initially for a period of one year and same to be continued till

further order.

d) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

e) Civil Application stands disposed of accordingly.

f) No order as to costs.

(K.K.TATED, J.)