

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 3272 OF 2019
IN
FIRST APPEAL (STAMP) NO. 20751 OF 2019**

National Insurance Co. Limited ... Applicant
V/s.
Shri Bhalchandra Laxman Pingle & Anr. ... Respondents

Ms. Harshada M. Rane, Advocate for Applicant.

**CORAM : K. K. TATED, J.
DATED : 11th OCTOBER, 2019**

P.C. :

1. Heard learned counsel for the applicant.
2. By this Civil Application, applicant/insurance company is seeking stay of operation and implementation of Judgement and Award dated 19th September, 2018 passed by Motor Accident Claims Tribunal, Thane in Motor Accident Claim Petition No. 84 of 2006 holding that the respondents/claimants are entitled for compensation of Rs.11,26,078/- with interest @ 7.5% p.a.
3. The Learned Counsel for the applicant submits that, if entire amount is recovered by the respondents/claimants by filing execution application then nothing will survive in the present proceedings. She

submits that, they have a good chance of success in the present matter. She submits that, she received instructions from her client that, they are ready and willing to deposit the entire awarded amount with interest in Tribunal. 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 impugned judgment and Award.

4. It is to be noted that, in the present proceeding an accident which occurred on 27th August 2005, the respondent/claimant sustained injuries such as :

- i] Fracture of Mandible.
- ii] Compression fracture of D12 of Vertebra
- iii] Severe lower limb paresis;
- iv] Multiple CLW and abrasion.

Because of accident, the claimant was admitted in hospital from 27th August, 2005 to 4th September, 2005, 8th September, 2005 to 23rd September, 2005 and 29th November, 2005 to 22nd December, 2005. The respondent/claimant placed on record the certificate showing that he sustained 56% disability.

5. Considering all these facts, I am of the opinion that, respondent/claimant can be permitted to withdraw the 50% amount

without furnishing any security but subject to outcome of the First Appeal.

6. In view of the aforesaid facts, following order is passed.

ORDER

a) Civil application is allowed in terms of prayer clause 'a' which read thus :

“Pending the hearing and final disposal of the Appeal this Hon’ble Court be pleased to stay the operation of the impugned Judgement and award dated 19-9-2018 passed by the Hon’ble Learned Additional Member, MACT, Thane allowing the Claim Petition No. 84 of 2006 and directing this Applicant herein to pay the total amount of Rs.11,26,078/- with interest at the rate of 7.5% p.a. interest from the date of filing the Application till date realisation.”

on condition that, applicant to deposit entire awarded amount with interest in Tribunal on or before 8th November, 2019 failing which Civil Application shall stand dismissed without further reference to the court.

b) If amount is deposited within time, the respondent /claimant Mr. Balchandra Pingle is entitled to withdraw 50 % amount with accrued interest without furnishing any security, but subject to outcome of the First Appeal.

c) Tribunal is directed to invest the remaining amount in fixed deposit of any nationalized 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 application for withdrawal of the further amount and that will be decided on its own merits.

- e) Civil Application disposed of accordingly.
- f) No order as to costs.

(K.K.TATED, J.)