

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2993 OF 2019
IN
FIRST APPEAL (ST) NO. 21870 OF 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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Mr. Rahul Mehta I/b KMC Legal Venture for the Applicant.

CORAM: K.K.TATED, J.
DATED : 26/08/2019

P.C.

1 Not on board. At the request of the learned Counsel for the Applicant, matter is taken on board for urgent order.

2 The learned Counsel for the Applicant submits that Respondents original Claimants filed Execution Application for recovery of entire awarded amount. He submits that in that application the Executing Court issued notice against them. Hence, there is an urgency in the present matter.

3 The learned Counsel for the Applicant submits that by this Civil Application, they are seeking stay of the operation and implementation of the Judgment and Award dated 30.11.2018 passed by MACT, Mumbai

in MACP No. 1282 of 2011 holding that the Respondents original Claimants are entitled to a sum of Rs. 31,35,790/- by way of compensation with interest @ 7.5 % p.a.

4 The learned Counsel for the Applicant submits that the Tribunal erred in coming to the conclusion that Insurance Company is liable to pay compensation though there was breach of terms and conditions of insurance policy. He submits that on the date of accident i.e. 29.04.2011 the offending vehicle was not holding valid permit. In support of his contention, the learned Counsel for the Applicant relied on para 16 of the impugned judgment. He submits that they have good chance of success in the present matter. 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. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal.

5 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 four weeks from today.

6 Considering the submissions made by the learned Counsel for the Applicant and observations made by the Tribunal and as Applicant is ready and willing to deposit the entire amount in the Tribunal on or before 21.09.2019, I am satisfied that Applicant has made out a case for allowing this Civil Application.

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 21.09.2019, failing which Civil Application shall stand dismissed without further reference to the Court. Prayer clause (a), reads thus:

“a) That this Hon'ble Court be pleased to stay the execution of Judgment and Award dated 30.11.2018 passed in MACT Application No. 1282 of 2011 by Learned Member Shri. K.B. Ippar, Member MACT, Tribunal @ Mumbai.”

b) If amount is deposited within stipulated time, the Tribunal is directed to invest the amount in fixed deposit of any nationalised bank, initially for a period of one year and same to be continued till further order.

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

d) Civil Application stands disposed of accordingly. No order as to costs.

(K.K.TATED, J.)