

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application (ST) No.22781/2019
in
First Appeal (ST) No.22778/2019

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. Amit Gharte for the Applicant

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 25, 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 14.03.2019 passed by the MACT Solapur in MACP No.6/2015 holding that the Respondent-Claimant is entitled to sum of Rs.64,179/- by way of compensation along with interest 9% p.a. from the date of filing the petition till realisation.

3 The learned counsel for the Applicant submits that in the present

proceedings the Respondent-Claimant has filed Execution Application for recovery of the amount, which is kept on 18.10.2019 before the Executing Court.

4 The learned counsel for the Applicant submits that in the present proceedings they are challenging the impugned judgment and award on two counts i.e. quantum and contributory negligence. He submits that both these facts are not considered by the Tribunal while deciding the compensation awarded to the Respondent-Claimant. He submits that they have good chance of success in the matter.

5 The learned counsel for the Applicant 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 the impugned judgment and award. He submits that if the entire amount is recovered by the Respondent-Claimant by filing execution application, then nothing will survive in the present proceedings.

6 It is to be noted that in an accident which occurred on 24.11.2013 the Respondent-Claimant sustained injuries. Because of that she was admitted in Gramin Rugnalaya and thereafter shifted to Satara Rughnalaya where the claimant was treated as indoor patient and also got operated. As per the claim petition, the claimant spent more than Rs.1,20,000/- for medical treatment and hospital charges, Rs.20,000/- on special diet and Rs.20,000/- for conveyance and attendance. She was indoor patient at Shatavari Hospital, Majalgaon from 30.11.2013 to 04.12.2013 and spent Rs.25,000/- for medical treatment.

7 Considering these facts, I am of the opinion that the claimant can be permitted to withdraw some amount, with accrued interest without furnishing any security but subject to outcome of the First Appeal.

8 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 15.10.2019

failing which the 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 implementation, operation and execution of the impugned judgment dated 14.03.2019 and award dated 01.04.2019 passed in MACP No.6 of 2015 by Ld. MACT, Solapur.”

b. If amount is deposited within stipulated time as stated hereinabove Respondent-Claimant Balika Rajaram Mehtre is permitted to withdraw Rs.40,000/- 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 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 they so

desire, which will be decided on its own merits

e. The Civil Application stands disposed of accordingly.

d. No order as to costs.

(K.K.TATED, J.)