

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.4413/2011
in
First Appeal No.970/2014

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Atul Gatane for the Applicant Mrs. Sapana Krishnappa for Respondent Nos.1 to 4. Mr. Madhur Rai I/b. PRS Legal for Respondent No.5	

CORAM: K.K.TATED, J.
DATED : AUGUST 6, 2019

P.C.

1 Heard. By this Civil Application, the Applicant Insurance Co. is seeking stay to the operation and implementation of the judgment and award dated 02.12.2010 passed by the MACT, Mumbai in application NO.27/2004.

2 The learned counsel for the Applicant submits that as per order dated 20.10.2011 passed by this court, they have already deposited the entire awarded amount in the Tribunal. The statement is accepted. He submits that this Hon'ble Court be pleased to stay the

operation and implementation of the impugned judgment and award till hearing and final disposal of the First Appeal. He submits that if the entire amount is recovered by the claimants then nothing will survive in the present proceedings.

3 The learned counsel for the Applicant submits that the sum of Rs.25000/- deposited by them at the time of filing the First Appeal be transferred to the Tribunal.

4 On the other hand, the learned counsel for the Respondent-Claimant has vehemently opposed the Civil Application. She submits that the Tribunal, after considering the evidence on record held that the claimants are entitled to compensation. She submits that if stay is granted, Respondent-Claimant may be permitted to file appropriate application for withdrawal of the said amount.

5 Considering the submissions made by the learned counsel for the Applicant and as the entire awarded amount is deposited by the Insurance Co. in the

Tribunal, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

6 Hence, following order is passed:

a. Civil Application is allowed in terms of prayer clause (b) which reads thus:

“(b) Your Lordship be pleased to stay the execution, operation and implementation of the impugned judgment and order / Award dated 02.12.2010, passed by the Member, MACT, Mumbai Dist. Mumbai in MACP No.27/2004, till the final hearing and disposal of the First Appeal.”

b. The Tribunal is directed to invest the 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.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits

d. The amount of Rs.25000/- deposited by the Appellant at the time of filing the First Appeal be transferred to the Tribunal.

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

(K.K.TATED, J.)