

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3231/2019
in
First Appeal (ST) No.22931/2019

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

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 judgment and award dated 14.03.2019 passed by the MACT Solapur in MACP No.5/2015 holding that the Respondent-Claimant is entitled to sum of Rs.35,26,000/- out of which the Tribunal has permitted the Applicant to pay sum of Rs.21,86,000/- i.e. 60% of the total compensation. The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution

Application for recovery of the awarded amount. The next date there is 18.10.2019.

3 The learned counsel for the Applicant submits that in the present proceedings the Tribunal ought to have held that the Driver was also responsible to the extent of 50% in the accident instead of 40%. Therefore, the Applicant filed the present First Appeal challenging those findings and the compensation amount also.

4 The learned counsel for the Applicant submits that they have good chance of success in the matter. He 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 stay is not granted irreparable loss will be caused to them.

5 It is to be noted that in an accident which occurred on 24.11.2013 the husband of claimant No.1 sustained several injuries. Hence, initially he was admitted in Gramin Hospital and

thereafter shifted to Satara and then Ruby Hospital, Pune where he was admitted as indoor patient on 24.11.2013 to 28.11.2013 and thereafter to Ruby Hospital, Pune. As per the claim petition, claimant had spent Rs.7,28,000/- for medical treatment including hospital charges, medicine etc and also spent sum of Rs.20,000/- towards attendants etc. Thereafter the husband of claimant died on 28.11.2013. Hence, the claimant had filed an application u/s.166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.70 lacs with interest.

6 Considering the fact that the claimant No.1 is a housewife and claimant No.2 is a father of the deceased, I am of the opinion that the claimants can be permitted to withdraw some amount during pendency of the First Appeal because there is delay on the part of the Applicant to file the First Appeal.

7 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.5 of 2015 by Ld. MACT, Solapur.”

b. If amount is deposited within stipulated time as stated hereinabove the claimants are entitled to withdraw the following amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

i. Claimant No.1 Anita @ Supriya Sachin Mehtre Rs. 7 lacs

ii. Claimant No.2 Rajaram Narayanrao Mehtre Rs. 2 lacs

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.

f. No order as to costs.

(K.K.TATED, J.)