

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.3235/2019
in
First Appeal (ST) No.22952/2019

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 This Application is for condonation of 38 days delay in preferring the appeal challenging the judgment and award dated 14.03.2019 passed by the MACT Solapur in MACP No.7/2015 holding that the Respondent-Claimant is entitled to compensation of Rs.1,36,904 with interest @ 9% p.a. from the date of filing the petition till realisation.

3 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application

for recovery of the entire awarded amount, wherein the next date is 18.10.2019.

4 The learned counsel for the Applicant submits that they are restricting the First Appeal only to the quantum and contributory negligence. He 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. He submits that if the entire amount is recovered by the Respondent-Claimant in the execution application, then nothing will survive in the present proceedings.

5 It is to be noted that in an accident which occurred on 24.11.2013 the Respondent-Claimant sustained several injuries. Therefore, he was admitted in Gramin Rugnalaya and thereafter shifted to Satara Rugnalaya where the claimant has taken treatment as indoor patient and he was operated and a rod

was inserted in his leg. As per the claim petition, he spent sum of Rs.1 lacs for medical treatment including hospital charges, medicine etc. He spent Rs.20,000/- on special diet and Rs. 20,000/- for conveyance and attendance.

6 Considering these facts, I am of the opinion that the Applicant can be permitted to withdraw some amount with accrued interest without furnishing any security but subject to outcome of 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.7 of 2015 by Ld. MACT,

Solapur.”

- b. If amount is deposited within stipulated time as stated hereinabove the Respondent-Claimant Rajaram Narayanrao Mehtre is permitted to withdraw Rs.75,000/- 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.
- f. No order as to costs.

(K.K.TATED, J.)