

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 3052 OF 2019

IN

FIRST APPEAL NO. 1200 OF 2019

The New India Assurance Co. Ltd. Applicant

V/s.

Mr. Rahul Dattaray Solapurkar & Anr. Respondents

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Ms. Aditi Sharma i/b Res Juris for the Appellant.

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CORAM : K.K.TATED, J.

DATED : 30th AUGUST, 2019

P.C.

1. Heard the learned counsel for the applicant.
2. By this Civil Application, applicant is seeking stay of operation and implementation of impugned Judgment and Award dated 20th April 2019 passed by the Motor Accident Claims Tribunal, Pune in Motor Accident Claim Petition No. 318 of 2016.
3. The learned counsel for the applicant submits that the respondents/original claimants filed execution application for recovery of awarded amount Hence, there is an urgency.
4. The learned counsel for the applicant submits that, the Tribunal by its impugned Judgment and Award, awarded compensation on higher side. She submits that in accident which occurred on 15th February 2015 the respondent No.1 sustained only 20% disability. She submits that they have good chance of success

in the present proceeding. She submits that if entire amount is recovered by the respondent/claimant in execution application then nothing will survive in the present proceeding. She 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 impugned Judgment and Award passed by the Tribunal.

5. Advocate for applicant submits that, she has received instructions from her client that, they are ready to deposit the entire amount along with interest, within three weeks from today. Statement is accepted.

6. It is to be noted that, in the present proceeding in the accident which occurred on 15th February, 2015, the respondent/claimant sustained injuries. Because of that, Doctor has certified 20% permanent disability. Because of accident Respondent/Claimant could not work for, about 8 months. Hence respondent/claimant filed an application under Section 166 of Motor Vehicles Act, claiming compensation of Rs. 1,00,00,000/- (Rupees One Crore Only) with interest @ 15% per annum. Claimant by profession is acting in Marathi Movies.

7. Considering these facts and that the respondent sustained 20% permanent disability and his profession is to act in Marathi

Movies, I satisfy that he can be permitted to withdraw some amount during the pendency of First Appeal. Hence following order.

ORDER

- a) Civil Application is allowed in terms of prayer clause ‘b’ which reads thus :

“Pending hearing and final disposal of the first appeal the execution, implementation and operation of Judgment and Award dated 20.04.2019 passed by the Learned Member, Motor Accident Claims Tribunal, Pune, In MACP No. 318/2016 may kindly be stayed.”

on condition that, applicant to deposit entire awarded amount with interest in Tribunal on or before 21st September 2019 failing which Civil Application shall stand dismissed without further reference to the Court.

- b) If amount is deposited within stipulated time as stated above, Respondent/claimant Mr. Rahul Dattatraya Solapurkar is permitted to withdraw 30% amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.
- c) Tribunal is directed to invest the remaining amount in fixed deposit of any nationalized bank initially for a period of one year and same to be continued till further order.

- d) Liberty is granted to the respondent/claimant if he so desires to prefer an application for withdrawal of the further amount and that will be decided on its own merits.
- e) Civil Application is allowed accordingly.
- f) No order as to costs.

(K.K.TATED, J.)