

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.187/2017

in

First Appeal No.1246/2017

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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Ms. Aditi Sharma I/b. Res Juris for the Applicant

CORAM : K.K.TATED, J.

DATED : JULY 4, 2019

P.C.

1 Heard. By this Civil Application, the Applicant is seeking stay to the judgment and award dated 26.07.2016 passed by the MACT, Raigad at Alibaug in MACP No.1/2009 holding that the Respondent-Claimant is entitled to compensation of Rs.9,45,241/- along with interest @ 6% p.a.

2 The learned counsel for the Applicant submits that they have already deposited the entire awarded amount in the Tribunal along with interest in the Tribunal. The statement made by the Applicant is accepted.

3 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. She submits that they have good chance of success in the matter. She submits that the Tribunal has awarded the compensation on higher side. She submits that if the entire amount is recovered by the claimants then it will be very difficult for them to recover the same.

4 It is to be noted that in an accident which occurred on 06.06.2008 the Respondent-Claimant sustained injury. At that time, he was 40 years old and was serving with CICB Chemicon Pvt. Ltd. at Bangalore. Hence, the claimants filed petition u/s.166 of the Motor Vehicles Act, 1988 and claimed sum of Rs.7 lacs by way of compensation. It is to be noted that in the present proceedings the Respondent has examined Dr.Nehulkar who issued permanent disability certificate Exhibit-46 which shows that the Respondent-Claimant sustained 50% permanent disability.

5 Considering these facts, the Tribunal held that the Respondent-Claimant is entitled to compensation.

6 In view of these facts, I am of the opinion that the Respondent-Claimant can be permitted to withdraw some amount without furnishing any security, subject to outcome of the First Appeal.

7 Hence, following order is passed:

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

“(b) Pending hearing and final disposal of the First Appeal the execution, implementation and operation of judgment and award dated 26.07.2016 passed by the Learned Ex-Officio Member, Motor Accident Claims Tribunal, Raigad Alibag in MACP No.1 of 2009 may kindly be stayed.”

b. Respondent claimant Chandra Dhondiba Jagtap is permitted to withdraw 40% of the awarded amount with accrued interest without furnishing any security, 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.)