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

CIVIL APPLICATION No. 1344 OF 2019
IN
FIRST APPEAL No. 373 OF 2019

United India Insurance Co. Ltd.	...Applicant
Vs.	
Meghraj Jankisran Singh and ors.	...Respondents

Mrs. Varsha Chavan for Applicant

CORAM : SHRI K.K. TATED, J.

DATE : JUNE 19, 2019

P.C.:

1. Not on Board. At the request of learned counsel for the Applicant matter is taken on board for urgent orders.
2. Heard learned counsel Mrs. Varsha Chavan for the Appellant.
3. By this civil application, the Applicant is seeking stay of the operation and implementation of the judgment and award dated 6th March, 2018 passed by the Motor Accident Claim Tribunal, Vasai in MAC Application No. 30 of 2014 holding that the Respondents -Original Claimants are entitled sum of Rs.8,07,236/- by way of compensation with interest @ 9% p.a.
4. Learned counsel for the Applicant submits that there is a urgency in the present proceeding. She submits that recently they received the notice from the Respondents -Original claimants that, they filed

execution application in the Reference Court for recovery of entire compensation amount. She submits that if the entire amount is recovered by the Claimants, then nothing will survive in the present First Appeal.

5. Learned counsel for the Applicant submits that the tribunal in paragraph 22 of the impugned judgment and award, specifically recorded that the Respondents Claimants received benefit as per ESI to the tune of Rs.1,11,643/-. She submits that the trial Court failed to consider the fact that application was not maintainable under Section 166 of the Motor Vehicles Act in view of Section 53 r/w. Section 61 of the ESI Act. Hence, they have good chance of success in the present proceeding. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award during the hearing and final disposal of the First Appeal.

6. The learned counsel for the Applicant submits that she has received instructions from her client that they are ready and willing to deposit the entire awarded amount of compensation in the trial Court within four weeks from today.

7. Considering the submissions made by the learned counsel for the Applicant, averments made in the application and the impugned judgment and award and as the Claimants received the benefit as per ESI to the tune of Rs. 1,11,643/-, I am satisfied that the Applicant has made out a case for allowing this Civil Application.

7. Hence, following order:

(a) Civil application is allowed in terms of prayer clause (a), which reads thus, on a condition that the Applicant Insurance Company to deposit the entire awarded amount in tribunal on or before 26th July,

2019,failing which civil application shall stand dismissed without referring back to the Court.

“a) that pending the hearing and final disposal of this appeal,the implementation and/or the execution of the Award dated 6.3.2018 passed by Shri Rahul R. Bhosale, Member, MACT, Vasai, Thane in MACT Application No. 30 of 2014 be kindly stayed.”

(b) If amount is deposited within stipulated period as stated hereinabove, the Tribunal is directed to invest the same in fixed deposit of any Nationalized Bank , initially for a period of one year and same to be continued till further orders.

(c) Liberty is granted to the Respondents/Original Claimants, if they so desire, to prefer appropriate application for withdrawal of amount and that can be decided on its own merits.

(d) Civil application stands disposed of accordingly.

(e) No order as to costs.

[K.K. TATED, J.]