Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4037 OF 2015
IN
FIRST APPEAL STAMP NO. 30738 OF 2015

The New India Assurance Co. Ltd. .. Applicant
Vs.
Sundarabai Krishna Shinde and anr. .. Respondents

Mr.D.R.Mahadik, for the Applicant.

CORAM : K.K.TATED, J.

DATE : 20th AUGUST, 2019

P.C. :

. Heard learned Counsel for applicant.

2. Though the respondents are duly served, no one appears on their behalf when the matter is called out.

3. By this Civil Application, applicant- Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 06/04/2015 passed

by Motor Accident Claims Tribunal, Sindhudurga - Oros in Motor Accident Claims Petition No. 49 of 2010 holding that the respondents – claimants are entitled a sum of Rs.2,56,500/- by way of compensation with interest @ 9% p.a.

4. Learned Counsel for the applicant submits that as per order dated 02/12/2015 passed by this Court, they have already deposited the entire awarded amount with interest. Statement is accepted.

5. Learned Counsel submits that pending the hearing and final disposal of First Appeal, this Hon'ble Court may pleased to stay the operation and implementation of the judgment and award dated 06/04/2015 passed by the Tribunal. He submits that if the entire amount is withdrawn by the respondents- original claimants, then nothing will survive in the present proceedings. He submits that they have good chance of success in the present proceedings.

6. Considering the submissions made by the learned Counsel for the applicant and averments made in the Civil Application and as the entire amount is deposited by the applicant in Tribunal, I am satisfied that applicant has made out a case for allowing Civil Application. Hence, the following order.

O R D E R

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

> "That pending the hearing and final disposal of the appeal, the operation of the Judgment and Order dated 06-04-2015 passed by Hon'ble D.V.Modak, Member, Motor Accident Claims Tribunal, Sindhudurg -Oros in M.A.C.P. Application No. 49 of 2010, be stayed."

ii) The Tribunal is directed to invest the entire amount in a Fixed Deposit account of any Nationalised Bank, initially for a period of one year and the same shall be renewed till further orders.

iii) Registry is directed to transfer a sum of Rs. 25,000/- with

accrued interest deposited by the applicant at the time of filing of First Appeal to the Motor Accident Claims Tribunal, Sindhudurg-Oros in the account of M.A.C.P. Application No. 49 of 2010 immediately.

iv) Liberty is granted to the original claimants, if they so desire, to prefer an application for withdrawal of the amount and that application to be decided on its own merits.

v) Civil Application stands disposed of accordingly.

vi) No order as to costs.

(K.K.TATED, J.)