

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1896/2018
in
First Appeal (ST) No.33184/2017

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Ms. Dhanashree Padwal i/b. Suresh Padwal for the
Applicant

CORAM : K.K.TATED, J.
DATED : JUNE 13, 2019

P.C.

1 Heard. By this Civil Application, the Applicant Insurance Co. is seeking stay to the judgment and award dated 10.11.2016 passed by the MACT Raigad in MACP No.420/2012 holding that the Respondent-Claimant is entitled to sum of Rs.20,76,344/- by way of compensation along with interest @ 7.5% p.a.

2 The learned counsel for the Applicant submits that the Respondent-Claimant has filed the execution application and the next date before the executing court is 17.06.2019. She submits that if the entire amount is withdrawn by the claimant in the execution application, nothing will survive in the present proceedings. She submits that the Applicant has good chance of success in the matter. She submits that the Applicant is ready and willing to deposit the entire awarded amount along with

interest and costs within four weeks from today. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the impugned judgment and award till hearing and final disposal of the first appeal.

3 It is to be noted that in the present proceedings, in an accident which occurred on 20.05.2012 the Respondent-Claimant lost her brother. Initially, the father of the deceased had filed the claim petition. During pendency of the claim petition, the father expired. Hence, the Respondent was brought on record as the legal heir.

4 Considering the delay on the part of the Applicant to file the First Appeal I am of the opinion that the Respondent - claimant can withdraw some amount without furnishing any security.

5 Hence, following order is passed

a. The operation and implementation of the impugned judgment and award dated 10.11.2016 passed by the MACT Raigad in MACP No.420/2012 is stayed till hearing and final disposal of the first appeal, subject to the Applicant depositing the entire awarded amount along with interest and costs on or before 11.07.2019 in the Tribunal, failing which the Civil Application shall stand dismissed without further reference to the court.

- b. If amount is deposited within stipulated time as stated hereinabove, the Respondent - Shubhangi Suresh Gaikwad is entitled to withdraw 25% of the awarded amount with 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 of any Nationalized Bank, initially for a period of one year which shall be renewed from time to time till further orders.
- d. The respondent - claimant is granted liberty to take out appropriate application for withdrawal of further amount which shall be decided on merits on its own merits.
- e. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)