

Amk

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

**CIVIL APPLICATION NO. 1028 OF 2018
IN
FIRST APPEAL NO. 362 OF 2018**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Ms. Deepika Prabhala I/b Res Juris for the Applicant.

CORAM : K. K. TATED, J.
DATE : 28th MARCH, 2019.

P. C. :

1. Heard learned Counsel for the Applicant.
2. By this Civil Application, the Applicant-Insurance Company is seeking stay of the operation and implementation of the impugned Judgment and Award dated 14.07.2017 passed by Motor Accident Claim Tribunal, Mumbai in Application No. 38 of 2009 holding that the Respondent-Claimants are entitled compensation of Rs.1,47,753/- with 8% interest from the date of Application.
3. Learned Counsel Ms. Prabhala for the Applicant submits that that she received instruction from Insurance Company that they are ready and willing to deposit the entire awarded amount in the Tribunal within four weeks from today. Statement is accepted.
4. Learned Counsel for the Applicant submits that pending the hearing and final disposal of First Appeal, operation and implementation of the

impugned Judgment be stayed. She submits that if the entire amount is withdrawn by the Claimants, nothing would survive in the proceeding. She submits that in the present proceeding, the main plea taken by the Insurance Company that there was fake cover note of the Insurance Company. Hence, they have good chance of success in the present matter.

5. Considering the submission made by learned Counsel for the Applicant and as the Applicant is ready and willing to deposit the entire amount within four weeks, I satisfied that the Applicant has made out case for following order:

(i) Civil Application is allowed in terms of prayer clause (b) on condition that the Applicant to deposit the entire awarded amount in the Tribunal on or before 30.04.2019, failing which the Civil Application shall stand dismissed without referring back to this Court. Prayer clause (b) reads thus:

“(b) Pending hearing and final disposal of the first appeal the execution, implementation and operation of judgment and award dated 14.07.2017 passed by the Learned Member, Motor Accident Claims Tribunal, Mumbai in MACP 38 of 2009 may kindly be stayed.”

(ii) If the amount is deposited within stipulated time as stated above, the Tribunal is directed to invest the entire amount in a fixed deposit in any Nationalized Bank, initially for a period of one year

and the same shall be renewed from time to time till further orders.

(iii) Liberty granted to the Respondents-original Claimants, if they so desire, to prefer an appropriate application for withdrawal of amount, which will be decided on its own merits.

(iv) The Civil Application is disposed of accordingly.

[K. K. TATED, J.]