

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

**CIVIL APPLICATION NO.1906 OF 2016
WITH
CIVIL APPLICATION NO.2163 OF 2019
IN
FIRST APPEAL NO.806 OF 2016
WITH
FIRST APPEAL NO.806 OF 2016**

General Manager, Pune Mahanagar ...Appellant
Parivahan Mahamandal Ltd. Pune.

Versus

Sushil J. Pande and Anr. ...Respondents

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Mr. Parag V. Dube for the Applicant in CAF/1906/2016, for the Appellant in FA/806/2016 and for the Respondent in CAF/2163/2019. Mr. Hussnain Kaazi Sayyed with Ms Shraddha Vahal for the Respondent in CAF/1906/2016 and FA/806/2016 and for the Applicant in CAF/2163/2019.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st AUGUST, 2019.

P.C.:-

ORDER IN CIVIL APPLICATION NO.1906 OF 2016:-

The Applicant has sought to stay the execution and implementation of the impugned judgment and award dated 19th September, 2015 passed by the learned Member of M.A.C.T., Pune in M.A.C.P. No.614 of 2012.

2. The learned counsel for the Applicant states that the

Appellant-Insurance Company has deposited the entire compensation as per the impugned judgment and award before the M.A.C.T., Pune. Said statement is not controverted by the Respondents/original claimants.

3. In the light of the said statement, execution and implementation of the impugned judgment and award is stayed till the disposal of the Appeal.

4. The application stands disposed of.

ORDER IN CIVIL APPLICATION NO.2163 OF 2019:-

5. The Applicant /original claimant herein has sought withdrawal of the compensation deposited by the Appellant-Insurance Company pursuant to the order dated 30th January, 2017 passed in Civil Application No.1906 of 2016.

6. By the impugned judgment and award the Claims Tribunal has awarded compensation of Rs.57,17,000/- alongwith proportionate interest @ 6% per annum from the date of the impugned judgment.

7. Reading of the impugned judgment prima facie indicates that the Applicant had met with an accident on 17th March, 2011 involving a vehicle, which was owned by the Appellant. Crime was registered against the driver of the vehicle for driving the vehicle in a rash and negligent manner. The Tribunal has also recorded a finding that the driver has admitted in his cross examination that the injured was caught in the rear wheel of the bus and after the accident bus had stopped 15 ft from the spot of the accident and hence recorded the finding that the driver of the said vehicle was driving the bus in a rash and negligent manner. The Applicant was serving as Deputy Manager A2Z Infraservices Ltd. He has sustained 70% permanent disability. The Tribunal has computed future income as Rs.42,67,000/- even through the Applicant is still in service.

8. Considering the said fact and also considering the reasons stated in the application and the grounds raised in the appeal memo, the Applicant is allowed to withdraw 25% of the compensation awarded by the Claims Tribunal Pune, with proportionate interest accrued thereon. Suffice it to say that withdrawal of the compensation is subject to final outcome of the appeal. Applicant to give undertaking to the Claims Tribunal, Pune that he will refund the amount with

interest in the event the Appellant succeed in the appeal. Tribunal to re-invest the balance amount of compensation in any nationalised Bank until further orders.

9. The Application stands disposed of.

ORDER IN FIRST APPEAL NO.806 OF 2016:

10. Heard. Admit.

11. Mr. Hussnain Kaazi Sayyed, the learned counsel waives service on behalf of the Respondent No.1. Paper book to be filed within a period one year. Printing is dispensed with. Call for the record and proceedings.

12. Issue notice to the Respondent.

(SMT. ANUJA PRABHUDESSAI, J.)