

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION
CIVIL APPLICATION NO.1112 OF 2019
(For stay)
in
FIRST APPEAL (ST) No.33649 of 2018**

Reliance General Ins Co. Ltd	.. Applicant
VS	
Ashok Narayan Kurle & ors	.Respondents

Ms.Shalini Shankar for Applicant.

CORAM : K.K.TATED, J

DATE : 25th MARCH, 2019

P.C

Heard learned counsel for the parties.

2. By this Civil Application, applicant is seeking to stay the operation and implementation of the Judgment and award dated 28.6.23018 passed by the MACT, Mangaon District Raigad in MAC Petition No.96 of 2014.

3. Learned counsel for the applicant submits that the executing Court has issued warrant of attachment. She submits that if the entire amount is recovered by the respondents/ original Claimants in the Execution Application then, nothing will survive in the present First Appeal. She submits that she has a good chance to

succeed in the present matter. She submits that the Tribunal erred in coming to the conclusion that the respondents/original Claimants are entitled to a sum of Rs.6,74,000/- by way of compensation which is on the higher side.

4. Learned counsel for the applicants submits that the applicants are ready and willing to deposit the entire amount in the Tribunal within four weeks. 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 till the hearing and final disposal of the First Appeal.

5. Considering the submissions that the applicants and as they are ready and willing to deposit the awarded amount in the Tribunal within four weeks, I am satisfied that the applicant has made out a case for allowing the Civil Application. At the same time, the respondents/original claimants are also entitled to withdraw certain amount without furnishing any security. Actually, there is delay to file the present First Appeal. In the meantime, the respondents/original claimants preferred execution application in which the executing Court issued attachment warrant.

6. Considering these facts, following order :

O R D E R

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

“(a) Pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be pleased to say the effect, implementation and/or execution of the impugned Judgment and order dated 28.6.2018 passed by the Hon'ble Court of Member, in Motor Accident Claim Petition No.96 of 2014” .

On a condition that the applicant to deposit the entire awarded amount in the Tribunal on or before 26.4.2019 failing which the Civil Application shall stand dismissed without reference to the Court.

If the amount is deposited within the stipulated time, as prayed, the respondent/original claimants Ashok Narayan Kurle and Ashwini Ashok Kurle are entitled to withdraw 20% each of the total compensation without furnishing any security but, subject to the outcome of the present First Appeal.

(ii) The Tribunal is directed to invest the remaining amount in fixed deposit in any nationalised bank initially for a period of one year and to be continued for further orders.

(iii) Liberty is granted to the respondents/original claimants to prefer an application for withdrawal of the further amount if they wants and that to be decided on its own merits.

Civil Application disposed of accordingly.

No order as to costs.

{K.K.TATED, J}