

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1646 OF 2019
IN
FIRST APPEAL NO. 496 OF 2019

Iffco Tokio General Insurance Company Applicant.

Vs.

Vandana Vijay Tekwade & Ors. Respondents

Mr. Sarthak S. Diwan for the Applicant.
None for the Respondents.

CORAM : K.K.TATED, J.
DATED : JUNE 12, 2019

P.C.

- 1 Heard learned counsel Mr. Diwan for Applicant.
2. By this Civil Application, Applicant is seeking stay to the operation and implementation of impugned Judgment and award dated 28th September, 2018 passed by the Motor Accident Claims Tribunal, Rajgurunagar, Khed, Dist.Pune holding that the Respondents/Original Claimants are entitled to a sum of Rs.10,02,000/- by way of compensation with interest @ 9% p.a.
3. The learned counsel Mr. Diwan for the Applicant submits that if the entire amount is recovered by the Respondents/Original Claimants by filing execution application then nothing will survive in the present

first appeal. He submits that they have good chance of success in the present proceeding. He submits that admittedly in the present proceeding the Respondents/Original Claimants failed to bring on record any reliable evidence to show the income of the deceased was Rs. 9,000/- per month. He submits that considering this fact and in the interest of justice, the operation and implementation of impugned judgment and award passed by the Tribunal be stayed. He is willing to deposit the entire awarded amount with interest.

4. In the present proceeding in an accident which occurred on 29th April, 2019 Shubham Takawade died. Hence, the Respondents/Original Claimants had filed claim petition claiming the compensation under Section 166 of the Motor Vehicle Act to the tune of Rs. 12,00,000/-. The Trial Court awarded compensation in favour of Respondent to the tune of Rs. 10,02,000/-.

4. Considering these facts and the reasons given by the Trial Court, I am of the opinion that, all these three Claimants can be permitted to withdraw Rs. 1,00,000/- each along with the interest without furnishing any security but subject to first appeal.

5. Hence, the following order:

a. Civil Application is allowed in terms of prayer clause (b) which is reproduced below on condition that, Applicant to deposit the entire awarded amount along with interest, M.A.C.T. on or before 26th July

2019 failing which civil application shall stand dismissed without further reference to the Court.

“(b) That pending hearing and final disposal of the present first appeal, the effect, operation, implementation and execution of the impugned judgment and award dated 28/09/2018 passed by the Ld. Motor Accidents Claims Tribunal Rajgurunagar at Khed, District Pune in M.A.C.P. 68 of 2017 and disbursal of amount thereunder be kindly stayed.”

- b. If the amount is deposited as stated hereinabove, the Respondents/Original Claimants Vandana Takwade, Vijay Tekwade and Vishakha Tekwade are entitled to withdraw Rs. 1,00,000/- each with accrued interest without furnishing any security but subject to outcome of the first appeal.
- c. The Motor Accident Claim Tribunal is directed to invest the remaining amount in fixed deposit of Nationalized Bank initially for one year and the same to be continued till further orders.
- d. Liberty is granted to the Respondents/Original Claimants if they so desire to prefer appropriate application for withdrawal of the further amount and that application will be decided on its own merits.
- e. The civil application is accordingly disposed of.
- f. No order as to costs.

(K.K.TATED, J.)