

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO.1533/2019**  
**IN**  
**FIRST APPEAL NO.454/2019**

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| Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders | Court's or Judge's orders. |
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Mr.Sarthak S. Diwan for appellant.

**CORAM : K.K.TATED, J.**  
**DATED : APRIL 26, 2019**

**P.C.**

1. Heard learned counsel for applicant.
2. Learned counsel for applicant submits that by this civil application they are seeking stay of operation and implementation of impugned Judgment and Award dated 5.6.2018 passed by the Motor Accident Claim Tribunal in Motor Accident Claim Petition No.2238/2010 holding that respondents are entitled for Rs.1,82,283/- by way of compensation with interest at the rate

of 8% p.a. from the date of filing of petition till its realization. Learned counsel for applicant submits that respondent/original claimant filed execution application in tribunal for recovery of entire amount. He further submits that if the entire amount is recovered by respondent in execution application, then nothing will survive in the present case. He submits that he received instructions from his client that they are ready to deposit the entire amount alongwith interest in the tribunal on or before 7.6.2019. He further submits that in the interest of justice, this Court is requested to stay the operation, implementation and execution of impugned Judgment and Award till pending hearing and final disposal of First Appeal.

3. In the present proceeding, in an accident which occurred on 15.5.2010, respondent/claimant sustained injury. Because of that he sustained 35% permanent disability. In support of that, the claimant has placed on

record the Certificate issued by Dr.Khan. He also examined the said doctor at Exhibit 35. I am of the opinion that respondent/claimant is entitled to withdraw some amount without furnishing security.

4. Hence, the following order.

a) Civil Application is allowed in terms of prayer clause (b), on condition that the applicant to deposit the entire awarded amount in the tribunal alongwith interest on or before 07.06.2019, failing which the civil application shall stand dismissed without referring back to this Court. Prayer clause (b) which reads thus:

*“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 05.06.2018 passed by the Motor Accidents Claim Tribunal, at Mumbai in M.A.C.P. 2238/2010 and disbursal of amount there under, be kindly stayed.”*

b) If the amount is deposited within stipulated time,

respondent/claimant is allowed to withdraw 35% of total compensation without furnishing any security but subject to outcome of First Appeal.

c) Tribunal is directed to invest the remaining amount in a fixed deposit of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till further orders.

d) Liberty granted to respondent/original claimant if he so desire, to prefer an appropriate Application for withdrawal of further amount which, will be decided on its own merits.

e) Civil Application stands disposed of accordingly.

f) No order as to costs.

**(K.K.TATED, J.)**