

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No. 1286/2019
in
First Appeal No. (ST) 34323/2018

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
Mr. Rahul Mehta I/b. KMC Legal Venture for the Applicant Mr. Saurabh V. Patil I/b. Nitesh V. Bhutekar for Respondent No.1.	

CORAM : K.K.TATED, J.
DATED : APRIL, 8, 2019

P.C.

Heard. By this Civil Application, the Applicant Insurance Company is seeking the stay of the operation and implementation of the impugned judgment and award dated 04.07.2018 passed by the MACT Raigad at Alibaug in MACP No.66/2016 by which the Trial Court has held that the Respondent claimant is entitled to sum of Rs.54,81,000/- by way of compensation with 7.5% p.a. interest.

2 The learned counsel for the Applicant submits that the Respondent - original claimant has filed Execution Application. He

further submits that if entire award amount is recovered by the Respondent / original claimant in the Execution Application, nothing will survive in the present proceedings. He submits that the Applicant has good chance of success. He further submits that he received instructions from the Insurance Company that they are ready and willing to deposit the entire awarded amount on or before 03.05.2019. The statement is accepted.

3 In the present proceedings, in an accident which occurred on 24.11.2015, the Respondent claimant sustained injuries. At that time, he was working in Gulf country. The Trial Court has considered the monthly income of Rs.12,500/-. The learned counsel for the Insurance Company submits that they are disputing the monthly income of the claimant i.e. Rs.12,500/- also.

4 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application and as the Applicant is ready and willing to deposit the entire awarded amount in the Tribunal, I am satisfied that the Applicant

has made out a case for allowing the present Civil Application.

5 At the same time, the Respondent claimant is entitled to withdraw 50% of awarded amount unconditionally, subject to the outcome of the First Appeal.

6 Hence, the following order:

a) Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount in the Tribunal on or before 03.05.2019, failing which the Civil Application shall stand dismissed without further reference to the court.

b) If the awarded amount is deposited, the Respondent claimant Etesh Mohan parkar is entitled to withdraw 50% of the awarded amount unconditionally, subject to outcome of the First Appeal.

c) The Tribunal is directed to invest the remaining award 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 the claimants to prefer an appropriate Application for withdrawal of further amount, if he so desire, which will be decided on its own merits.

e) Civil application stands disposed off accordingly.

f) No order as to costs.

(K.K.TATED, J.)