

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1652/2019

in

First Appeal No.513/2019

Office Notes, Office
Memoranda of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's orders.

Mrs. Shalini Shankar for the Applicant

CORAM : K.K.TATED,J.
DATED : JUNE 18, 2019

P.C.

1 Heard. By this Civil Application, Applicant is seeking stay to the operation and implementation of the judgment and award dated 24.09.2018 passed by the MACT, Mumbai in Claim application No.1676/2013 holding that the Respondent-Claimant is entitled to sum of Rs.8,36,050/- by way of compensation with 9% p.a. interest from the date of institution of the claim petition i.e. 24.09.2013 till the date of realisation.

2 The learned counsel for the Applicant submits that if the entire amount is recovered by the Respondent-Claimant by filing Execution Application, nothing will survive in the present proceedings. He

submits that they have good chance of success in the matter. He submits that the Tribunal has erred in coming to the conclusion that the Respondent-Claimant sustained 48% permanent disability. The Tribunal has failed to consider the fact that the Respondent was earning sum of Rs.13000/- pm. He submits that not a single document is placed on record by the Respondent to prove his monthly salary.

3 It is to be noted that in the present proceedings in an accident which occurred on 31.07.2013 the Respondent-Claimants sustained injury. At the time of accident, he was 26 yrs old and working as Executive Officer with Wealth For Your Co. and was earning Rs.12000/- pm. Because of accident he was admitted in hospital from 26.02.2014 to 31.03.2014 for 24 days. Not only that he spent sum of Rs.3 lacs for the medical treatment. The claimant examined Dr. Naresh Khanna who had issued disability certificate at Exh.29 showing that the claimant sustained 48% p.a. partial permanent disability. Considering all these facts, the Tribunal held that the Respondent-Claimant is entitled to sum of Rs.8,36,500/-. In view of the fact that the Respondent-Claimants has sustained 48%

partial disability and he spent sum of Rs.3 lacs for medical treatment and he was hospitalized for 24 days, I am of the opinion that the Respondent-Claimant can withdraw 40% of the awarded amount without furnishing any security, subject to outcome of the First Appeal.

4 Hence, following order is passed:

a. The Civil Application is allowed in terms of prayer clause (a) subject to the Applicant depositing the entire awarded amount along with interest and costs in the Tribunal on or before 12.07.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) Pending the hearing and final disposal of the present First Appeal, this Hon’ble Court be please to stay the effect, implementation and or execution of the impugned judgment and order dated 24.09.2018 passed by the Hon’ble Court of Member, in MACP No.1676/2013.”

b. If the awarded amount is deposited within stipulated time as stated hereinabove, the claimant is entitled to withdraw 40% of the awarded amount with interest without furnishing any security, subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the remaining award amount with interest in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits

e. The Civil Application stands disposed of accordingly.

(K.K.TATED, J.)