

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Civil Application No.1799/2019

in

First Appeal No.610/2019

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. Rahul mehta I/b. KMC Legal Venture
for the Applicant

CORAM : K.K.TATED, J.

DATED : JULY 15, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Applicant, the matter is taken on production board.

2 By this Civil Application, the Applicant is seeking stay to the operation and implementation of the impugned judgment and award dated 25.09.2018 passed by the MACT below application Exhibit-2 in MACP No.803/2017 directing the Insurance Co. u/s.140 of the Motor Vehicles Act, 1988 to pay sum of Rs.50,000/- to the Respondent-Claimant with interest @ 7.5% p.a.

3 The learned counsel for the Applicant submits that the offending vehicle was holding “act only policy”. Therefore, the Insurance Co. is not liable to pay compensation. He submits that even the deceased was travelling as gratuitous passenger. These facts were not considered by the Tribunal while passing the order on application below Exhibit- 2. Hence, the First Appeal.

4 The learned counsel for the Applicant submits that the Respondent-Claimant has filed Execution Application of awarded amount, for recovery. He submits that the next date before the Trial Court is 19.07.2019. The learned counsel for the Applicant submits that, they received instructions from their client that they are ready and willing to deposit the entire awarded amount in the Tribunal within four weeks today. The undertaking is accepted.

5 The learned counsel for the Appellant submits that the sum of Rs.25,000/- deposited by them at the time of filing the First Appeal be transferred to the Tribunal.

6 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Civil Application and the objections raised by them in the appeal memo, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

7 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 24.08.2019, failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

“(a) That this Hon’ble Court be pleased to stay the effect, operation and implementation of the Award dated 25.09.2018 passed under section 140 of the M.V.Act 1988 in MACT application No.803/2017 by Shri K.B.Ippar – learned Member, Hon’ble MACT Mumbai @ Mumbai.”

b. The Tribunal is directed to invest the awarded amount 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.

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

d. The statutory amount of Rs.25000/- with accrued interest if any deposited by the applicant at the time of filing the First Appeal be transferred to the Tribunal.

d. The Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)