

**BEFORE THE MOTOR ACCIDENT CLAIMS TRIBUNAL AT MUMBAI
EXECUTION APPLICATION NO. 137 OF 2024**

IN

M.A.C.P. NO. 149 OF 2017

Shri Dhananjay Maruti Pawar

... Decree Holder / Applicant

Versus

Mr. Kala Surendran Nair & Anr.

... Judgment Debtors / Opponents

ORDER

1. By this order, I proceed to decide the present Execution Application filed for execution of the judgment and award dated 17/02/2024 passed in M.A.C.P. No.149 of 2017.

I. Background of the execution

2. The record placed before this Tribunal indicates that by judgment and award dated 17/02/2024 passed in M.A.C.P. No.149 of 2017, the claim petition came to be allowed and the Opponent/owner and Insurer were directed jointly and severally to pay compensation of Rs.21,06,129/- with future interest at 7% per annum from the date of application till realization, within six weeks from the date of the order.
3. The award further directed deposit of the amount in the account of the Tribunal by NEFT/RTGS mode and consequential

disbursement as per rules.

4. Since the awarded amount was allegedly not deposited within the stipulated period, the present execution application came to be filed by the decree holder for recovery of the decretal amount together with interest and costs.
5. The execution application shows that notice was ordered to be issued to the judgment debtor/insurer. The notice on record called upon the insurer to deposit the amount stated therein, failing which warrant of attachment of movable property would follow.
6. The record further contains service material including bailiff report indicating service of notice upon the insurer's office.

II. Roznama and subsequent developments

7. The roznama produced in the compilation shows that after institution of the execution application, the matter was repeatedly adjourned from time to time for report, service, hearing and/or steps.
8. The roznama entries further reveal that on several dates there was either no appearance of the applicant, or adjournments were sought on oral request on behalf of the applicant.
9. Most importantly, the roznama dated 28/08/2025 records that the advocate for applicant was present, advocate for insurer was

absent, and the matter was noted as “stayed in H.H. High Court”, whereupon the matter was adjourned under the caption “stayed by High Court”.

10. Even thereafter, the later roznama dated 13/11/2025 and 19/02/2026 do not indicate any effective step on the part of the decree holder to place on record the complete stay order, to seek appropriate further directions, or to prosecute the execution in any legally permissible manner after clarifying the extent and subsistence of the stay.

III. Point for determination

11. In the light of the above material, the point that arises for determination is:

Whether the present execution application deserves to be kept pending indefinitely, or whether it is liable to be disposed of in view of the stay operating from the Hon’ble High Court and want of effective prosecuting steps by the decree holder, with liberty to revive in accordance with law after cessation/vacation of stay?

IV. Legal position

12. The Motor Vehicles Act is a beneficial and social welfare legislation meant to ensure expeditious grant and realization of compensation to victims of motor accidents. In *National Insurance Co. Ltd. v. Swaran Singh*, the Hon’ble Supreme Court emphasized that Chapter XI of the Act is a social welfare legislation and that the provisions are to be interpreted so as to

effectuate relief to victims. The Court further held that the Tribunal's determination, including disputes inter se between insurer and insured arising in the claim proceeding, is enforceable and executable in the manner provided by Section 174 of the Act.

13. In the same decision, the Hon'ble Supreme Court specifically summarized that the Claims Tribunal has power and jurisdiction to decide disputes inter se between insurer and insured while adjudicating the claim, and the award so made is enforceable and executable in the same manner as contemplated by Section 174 of the Motor Vehicles Act. The Court further held that, where warranted, the money found due may be recovered in the manner indicated by Section 174.

14. In *Manuara Khatun v. Rajesh Kr. Singh*, the Hon'ble Supreme Court reiterated that, where law so permits, the insurer may be directed first to satisfy the award and then recover the amount from the owner in the very same proceedings by filing execution application. The underlying rationale is that fruits of the award should not be frustrated by procedural obstacles.

15. At the same time, it is equally settled that an executing court cannot travel beyond the decree or award and cannot act contrary to a subsisting order of stay passed by a superior court. The Hon'ble Supreme Court has reiterated that the executing

court must execute the decree as it stands and cannot go behind or beyond it.

16. The Hon'ble Bombay High Court has also recently reiterated in *Maharashtra State Road Transport Corporation v. Sanket Dattatraya Mistri*, First Appeal No.941 of 2024, decided on 02/12/2025, that ad-interim stay to the execution, operation and implementation of a MACT award may be granted by the appellate court subject to deposit conditions. This shows that once a competent appellate court grants stay of execution /operation/implementation of the award, the Tribunal must necessarily respect such stay order and cannot proceed in derogation thereof.

17. As regards dismissal/disposal of execution matters for default or want of steps, the Hon'ble Bombay High Court in *Rahul Tatyaba Jamdar v. Narayan Vishnu Nalawade*, Writ Petition No.10593 of 2023, decided on 06/08/2025, referred to the earlier decision in *Dattatraya s/o Raghunath Jog v. Radhabai w/o Laxmanrao Ghate*, 2007(3) Mh.L.J. 425, and noted that Rules 105 and 106 of Order XXI of the Code of Civil Procedure apply in the context of dismissal/restoration of execution applications. The judgment records a situation where the execution application had been dismissed because no steps were taken and the decree holder and advocate remained absent.

18. Thus, two principles emerge clearly: first, execution proceedings are intended to secure the fruits of the award and should not be allowed to stagnate unnecessarily; second, where a superior court has stayed execution, or where the decree holder fails to take effective steps for long, the executing court is justified in disposing of the execution proceeding, ordinarily with liberty to revive or restore in accordance with law as and when the legal impediment ceases or sufficient cause is shown.

V. Appreciation of the present record

19. In the present matter, the execution application was filed after the award dated 17/02/2024. Notice was issued. Service appears to have been effected upon the insurer. However, despite the matter remaining on board for a considerable time, the record does not reveal any effective culmination of the execution process.

20. The roznama reflects repeated adjournments over a long period. On some dates the applicant remained absent. On some dates adjournments were sought orally. On 03/07/2025 it was noted that report was received from the Accounts Officer/department. On 28/08/2025 a specific roznama entry records that the matter was stayed in the Hon'ble High Court.

21. Once it is recorded before the Tribunal that the matter is stayed by the Hon'ble High Court, the Tribunal is not expected

to continue coercive execution in breach of such superior court order. Judicial discipline and settled principles governing execution require scrupulous obedience to the order of the appellate/superior court.

22. Even after the said stay entry, the decree holder did not place on record material showing that the stay had been vacated, modified, limited, spent out, or that execution could still proceed in any particular respect. No effective application appears to have been moved for appropriate orders after clarifying the scope of the High Court stay.

23. An execution proceeding cannot be kept pending endlessly in a dormant condition merely because at one stage notice was served. A proceeding which has become incapable of effective prosecution because of a subsisting stay from the Hon'ble High Court, and in which the decree holder has not taken further legally meaningful steps for a long time, deserves appropriate disposal rather than indefinite pendency.

24. At the same time, outright rejection on merits of the execution claim would not be justified, because the decree holder's substantive rights under the award are not shown to have been extinguished. The proper course, therefore, is not dismissal on merits of the entitlement under the award, but disposal of the present execution application for the present,

with express liberty to the decree holder to revive / restore / file appropriate fresh execution proceedings in accordance with law after the stay ceases to operate or after obtaining necessary clarification from the Hon'ble High Court.

25. Such a course balances both sides. It preserves the authority of the Hon'ble High Court's stay order, prevents unnecessary accumulation of dormant execution proceedings, and yet safeguards the decree holder's right to seek enforcement in accordance with law at the appropriate stage.

VI. Findings

26. I therefore hold that, in the peculiar facts disclosed by the present record, the execution application does not deserve to be kept pending indefinitely.

27. I further hold that, in view of the roznama recording stay by the Hon'ble High Court and absence of subsequent effective prosecuting steps, the just and proper course is to dispose of the present execution application, reserving liberty to the decree holder to apply for revival/restoration or to institute appropriate execution proceedings afresh in accordance with law if and when the impediment created by the stay order is removed or clarified.

VII. Order

Hence, the following order is passed:

1. **Execution Application No.137 of 2024 is disposed of for the present.**
2. It is clarified that the present disposal is **not on the merits of the decree holder's entitlement under the judgment and award dated 17/02/2024** in M.A.C.P. No.149 of 2017.
3. The present execution application is being disposed of in view of the roznama recording stay by the Hon'ble High Court and for want of effective further prosecuting steps in the execution.
4. **Liberty is reserved to the decree holder** to file an application for **revival/restoration** of this execution application, or to adopt such other appropriate execution remedy as may be permissible in law, upon placing on record appropriate material to show that the stay granted by the Hon'ble High Court has been vacated, modified, clarified, or has otherwise ceased to operate.
5. In the event of such application being filed, the same shall be decided on its own merits and in accordance with law.
6. Record and proceedings be consigned after due compliance.

Pronounced in open Court.

Date: 11/3/2026

Place: Mumbai

(Shashikant Eknathrao Bangar)
Member, C.R.3,
Motor Accident Claims Tribunal,
Mumbai.