

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

CIVIL APPLICATION NO.2511/2015
IN
FIRST APPEAL (ST) NO.3140/2015

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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Ms. Deepika Motgi with Priti Pandey i/b.
Respondent Juris for the Applicant

CORAM : K. K. TATED, J.

DATE : JULY 31, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned award dated 10/12/2013 passed by the MACT, Mumbai in Application No.2126/2007 by which the Tribunal awarded sum of Rs.2,59,500/- with 7.5% pa interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed

Execution Application No.55/2015. He submits that if entire amount is recovered by the Respondent-Claimant, nothing will survive in the present proceedings. Hence, there is urgency in the matter.

4. The learned counsel for the Applicant submits that the Tribunal has not considered the contributory negligence at the time of awarding the compensation. She submits that the Tribunal has awarded compensation on higher side. She submits that the Applicant has good chance of success in the matter. She submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire award amount, along with cost, interest, if any, in the Tribunal within 4 weeks from today. Statement is accepted.

5. The learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the effect and implementation of the impugned award till hearing and final disposal of the First Appeal. She submits that if stay is not granted, irreparable loss and injury will be caused to the Applicant.

6. In the present proceedings in an accident which occurred on 14/01/2007 the Respondent-Claimant lost their son. At the time of accident, he was 33 years old and was working as a Driver with M/s. H. R. Auto Rent a Car at mahim and was earning Rs.3250/- p.m. Considering this fact and as there is delay of 206 days in filing the appeal on the part of the Insurance Co., I am of the opinion that the Respondent-Claimant are entitled to withdraw 50% of the award amount.

7. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 10/12/2013 passed by the MACT, Mumbai in Application No.2126/2007 is stayed, till hearing and final disposal of the appeal, subject to the Applicant depositing the entire award amount in the Tribunal within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If amount is not deposited within stipulated time as stated hereinabove the Respondent-Claimants are entitled to execute the award as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimants are entitled to withdraw 50% of the award amount with accrued interest without furnishing any security, subject to outcome of the First Appeal.

d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one and half year which will be renewed from time to time till further orders.

e. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the further amount, if they so desire, which will be decided on its own merits.

g. Civil Application stands disposed off accordingly.

JUDGE