

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

**CIVIL APPLICATION NO. 2154 OF 2015
IN
FIRST APPEAL (ST.) NO. 5866 OF 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. Poonam Mittal for the applicant.

**CORAM : K. K. TATED, J.
DATED : 25/06/2015.**

PC.:

. Heard learned Counsel for the applicant.

2 This application is preferred by insurance company for stay of operation and implementation of the Judgment and Award dated 05.07.2013 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 1906 of 2003 holding that the respondent claimant is entitled to sum of Rs.5,43,347/- with 7.5% interest by way of compensation.

3 The learned Counsel for the applicant submits that the respondents claimants filed execution application no. 116 of 2014 for recovery of entire compensation amount. She further submits that if

entire compensation is recovered by the respondents claimants in execution application, nothing will survive in the present proceeding. Hence, there is an urgency.

4 The learned Counsel for the applicant submits that the Tribunal erred in coming to the conclusion that the respondent claimant is entitled to sum of Rs.5,43,347/- by way of compensation. She further submits that in the present proceeding, in the accident which occurred on 10.03.2003, the claimant suffered some injuries. On that date, the claimant was 10 years old. She submits that the Tribunal awarded Rs.1,62,000/- toward loss of future earning due to disability and Rs.1,00,000/- towards loss of enjoyment and amenities of life, which is on higher side. She submits that they have good chance of success in the present matter. She further submits that if stay is not granted, irreparable loss and injury will be caused to the applicant.

5 The learned Counsel for the applicant further submits that she has received instructions from insurance company that they are ready and willing to deposit the entire awarded amount in the Tribunal within four weeks from today. Statement is accepted.

6 Considering the fact that on the day of accident, the claimant was 10 years old and he was sustained 55% permanent disability as per certificate Exh. 39 issued by Dr. Ravindra Khedekar P.W.3 and there is delay of 358 days in filing present appeal on the part of insurance company, I am of the opinion that Respondent/claimant is entitled to withdraw some amount at present.

7 Hence, the following order:

a) The operation and implementation of the Award dated 12.12.2014 passed by the Motor Accident Claims Tribunal, Thane in M.A.C.P No. 347 of 2010, is stayed on condition that the insurance company have to deposit the entire awarded amount along with interest and costs in the Tribunal within four weeks from today, failing which civil application shall stand dismissed without referring back to the court .

b) If amount is not deposited within stipulated time as stated herein above, the respondent claimant is free to proceed with execution application no. 116 of 2014 for recovery of awarded amount.

c) If amount is deposited within stipulated time as stated herein above, the respondent claimant is entitled to withdraw 50% amount without

furnishing any security but subject to the outcome of the First Appeal.

d) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

e) Liberty granted to the respondent claimant to take out appropriate application, if he so desire, for withdrawal of the amount and that application will be decided on its own merits.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)