

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

CIVIL APPLICATION NO.1641 OF 2015
IN
FIRST APPEAL (ST) NO.5410 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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Mr. Ketan Joshi for the Applicant

CORAM : K. K. TATED, J.
DATE : APRIL 29, 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. He submits that the Respondent-Claimant filed Execution Application No.46/2015 for recovery of the awarded amount.

2. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 07/10/2014 passed by the MACT, Pune in MACP No.397/2003 awarding sum of Rs.2,90,000/- with 9% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that in the present proceedings, the Respondent-Claimant filed Application under section 163 of the Motor Vehicles Act claiming compensation of Rs.3,50,000/-. He submits that the Tribunal awarded sum of Rs.2,90,000/- including amount of Rs.25000/- towards NFL amount under section 140 of the Motor Vehicles Act which is contrary to law. He submits that the compensation awarded by the Tribunal is on higher side. He submits that the Applicant has good chance of success in the matter. He submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal till hearing and final disposal of the appeal.

4. In the present proceedings , in an accident which occurred on 6/04/2001 the Respondent-Claimant sustained injury and because of that he suffered 50% disability. On the date of accident the claimant was earning Rs.3500/- pm. salary and Rs.1500/- towards bhatta. On the basis of these facts, the Respondent-Claimant filed Application for compensation of Rs.3,65,000/-. The Tribunal

awarded compensation of Rs.2,90,00/- with 9% p.a. interest. Considering the disability sustained by the claimant and the reasons given by the Tribunal in the impugned judgment and award, I am of the opinion that the Respondent-Claimant at present is entitled to withdraw 30% of the awarded amount without furnishing any security, subject to outcome of the First Appeal.

5. Hence, following order.

a. The operation and implementation of the impugned judgment and award dated 07/10/2014 passed by the MACT, Pune in MACP No.397/2003 is stayed till hearing and final disposal of the First Appeal, subject to the Applicant depositing the entire awarded amount in the Tribunal within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the amount is not deposited within stipulated time as stated herein above, the Respondent-Claimant is entitled to execute the award as per law.

c. If the amount is deposited within stipulated time as stated herein above, the Respondent-

Claimant are entitled to withdraw 30% of the awarded amount with accrued interest, without furnishing any security, subject to out come of the First Appeal.

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

e. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till hearing and final disposal of the appeal.

f. Civil Application stands disposed off accordingly.

JUDGE