

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

CIVIL APPLICATION NO.2173/2015
IN
FIRST APPEAL (ST) NO.34754/2014

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. S. S. Jinsiwale for the Applicant

CORAM : K. K. TATED, J.
DATE : JUNE 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.

2. This Application is for stay of the operation and implementation of the impugned award dated 22/07/2014 passed by the MACT, Sangli in MACP No.67/2010 awarding sum of Rs.16,91,000/- with 9.% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that Respondent-Claimant filed Execution Application No.9/2015 for recovery of entire award amount. He submits that if entire amount is

recovered by the Respondent-Claimant in Execution Application, nothing will survive in the present proceedings. Hence, there is urgency.

4. The learned counsel for the Applicant submits that the Trial Court erred in coming to the conclusion that the Respondent-Claimant are entitled to compensation of Rs.16,91,000/-. He submits that the Tribunal awarded compensation on higher side. He further submits that the driver of the offending vehicle was not holding a valid license on the date of accident. Hence, the Insurance Co. is not liable to pay compensation. On the basis of this submission, the learned counsel for the Applicant submits that during pendency of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award. He further submits that if stay is not granted, irreparable loss will be caused to the Applicant.

5. The learned counsel for the Applicant submits that he received instructions from the Insurance Co. that they are ready and willing to deposit the entire award amount in the Tribunal within 4 weeks from today. Statement is accepted.

6. In the present proceedings in an accident which occurred on 31/07/2008 the claimant No.1 lost his wife. At the time of accident, she was 37 years old and she was a beautician. The claimants filed Application under section 166 of the Motor Vehicles Act for compensation of Rs.30,10,000/- with interest. Considering the evidence on record the Tribunal held that the claimants are entitled to Rs.16,91,000/- by way of compensation. Considering the fact that the claimant No.1 lost his wife and claimant No.2 his mother in an accident which occurred on 31/07/2008 and as there is delay on the part of the Insurance Co. to prefer the present appeal, I am of the opinion that the claimants are entitled to withdraw some amount.

7. Hence, the following order:

a. The operation and implementation of the impugned award dated 22/07/2014 passed by the MACT, Sangli in MACP No.67/2010 awarding sum of Rs.16,91,000/- is stayed till hearing and final disposal of the First Appeal, subject to the Applicant depositing the entire award amount in the Tribunal along with interest, if any.

b. If amount is not deposited within stipulated time as stated hereinabove the Respondent-

Claimants are entitled to proceed with Execution Application for recovery of the award amount.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimants are entitled to withdraw Rs.3 lacs each 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 year which will be renewed from time to time till hearing and final disposal of the appeal.

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

f. Civil Application stands disposed off accordingly.

JUDGE