

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

**CIVIL APPLICATION NO. 2211 OF 2015
IN
FIRST APPEAL (ST.) NO. 10626 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. Kalpana Trivedi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 30/06/2015.**

PC.:

Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by insurance company for stay of operation and implementation of the award dated 12.12.2014 passed by the Motor Accident Claims Tribunal, Thane in M.A.C.P No. 348 of 2010 holding that respondent claimant is entitled to Rs.02,25,053/- with 7% interest by way of compensation.

3 The learned Counsel for the applicant submits that the respondent claimant filed execution application no. 19 of 2015 for recovery of awarded amount. She submits that if the entire awarded

amount is recovered by the claimant in execution application, nothing will survive in the present proceeding. Hence, there is an urgency in the present matter.

4 The learned counsel for the applicant submits that in an accident which occurred on 5.6.2009 the claimant sustained injuries. Hence, claimant filed application under section 166 of the Motor Vehicles Act, 1988 for compensation. She submits that the respondent claimant was admitted in Sai Hospital from 5.6.2009 to 14.6.2009. She submits that the witness Vaibhav in his evidence deposed that their Hospital has received total bill amount of Rs.1,22,032/- from Paramount Health Services in view of Mediclaim Policy taken by the claimant. She submits that in spite of these facts, Tribunal further awarded the same amount i.e. Rs.1,22,032/- to the respondents claimants by way of compensation apart from other heads. This shows that the claimant is getting reimbursement of medical expenses from Paramount Health Services as well as by way of compensation as per impugned award dated 12.12.2014 which is contrary to the well settled law.

5 The learned counsel for the applicant Insurance Company submits that she received instruction from Company that they are ready and

willing to deposit entire awarded amount with interest in the Tribunal within four weeks from today. Statement is accepted.

6 Considering the submissions made by the learned Counsel for the applicant, averments made in Civil Application and as the insurance company is ready and willing to deposit entire awarded amount in the Tribunal, I am satisfied that applicant has made out case for allowing Civil Application.

7 The learned counsel for the applicant Insurance Company made a statement before this court that in the present proceeding they have challenged the award passed by Tribunal dated 12.12.2014 only to the extent of Rs.1,22,032/- i.e. medical expenses. In view of this statement of the Advocate for Insurance Company, I am of the opinion that remaining amount can be withdrawn by the respondent claimant without furnishing any security.

8 Hence, the following order.

a) The operation and implementation of Award dated 12.12.2014 passed by the Motor Accident Claims Tribunal, Thane in M.A.C.P No. 348 of 2010 is stayed on condition that applicant to deposit the entire awarded amount 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 entitled to execute the award according to law.

c) If amount is deposited within stipulated time as stated herein above, respondent claimant is entitled to withdraw entire amount except Rs.1,22,032/- with accrued interest without furnishing any security.

d) The Tribunal is directed to invest the sum of Rs.1,22,032/- with accrued interest in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till further orders.

e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)