

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

**CIVIL APPLICATION NO. 3257 OF 2014  
IN  
FIRST APPEAL NO. 1152 OF 2014**

|                                                                                                           |                           |
|-----------------------------------------------------------------------------------------------------------|---------------------------|
| Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders | Court's or Judge's orders |
|-----------------------------------------------------------------------------------------------------------|---------------------------|

Mr. Rahul Mehta i/b KMC Legal Venture for the applicant.

Mr. S.G. Thorat for the respondent nos. 1 & 2.

**CORAM : K. K. TATED, J.  
DATED : 15/04/2015.**

**PC.:**

. Heard learned Counsel for the parties.

2 This Application is preferred by insurance company for stay of operation and implementation of the judgment and award dated 23.12.2013 passed by M.A.C.T., Mumbai in Application no. 1432 of 2004.

3 The learned counsel for the insurance company submits that they already deposited entire awarded amount in the Tribunal. He submits that the Tribunal in paragraph 38 specifically held that insurance company is not liable to indemnify the insured as the deceased has been held to have been a gratuitous passenger in the Utility Jeep in question when it met with an accident.

4 The learned counsel for the insurance company submits that the deceased was traveling in goods vehicle without any goods. Hence, insurance company is not liable to pay compensation.

5 The learned counsel for the insurance company further submits that in the interest of justice, this Hon'ble Court be pleased to stay operation and implementation of impugned Award passed by the Tribunal.

6 On the other hand, the learned counsel for the claimants submits that they preferred Civil Application no. 1390 of 2015 for withdrawal of amount. That application will be decided on its own merits.

7 Hence, the following order.

a) The operation and implementation of impugned judgment and award dated 23.12.2013 passed by M.A.C.T. Mumbai in application no. 1432 of 2004 is stayed in favour of insurance company only, till the hearing and final disposal of above mentioned First Appeal.

b) The Tribunal is directed to invest the entire amount deposited by the insurance company 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.

c) Civil Application no. 1390 of 2015

preferred by the claimants will be decided on its own merits.

d) The respondents claimants are free to execute the judgment and award against the owner of the offending vehicle according to law.

e) Civil Application is disposed of accordingly.

**(K.K.TATED, J.)**