

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

**CIVIL APPLICATION NO. 2037 OF 2015
IN
FIRST APPEAL (ST.) NO. 11603 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. D.R. Mahadik for the applicant.
None for the respondent.

**CORAM : K. K. TATED, J.
DATED : 11/06/2015.**

P.C.:

. 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 Judgment and Award dated 11.11.2014 passed by the Motor Accident Claims Tribunal, Mangaon, Dist. Raigad in M.A.C.P. No. 1001 of 2008 (old no. 753 of 2006).

3 The learned Counsel for the applicant submits that the claimant has filed execution application no. 12 of 2015. Hence, there is an urgency. He submits that if entire amount is recovered by the claimant in execution application, nothing will survives in the

present proceeding. He submits that the Tribunal has awarded compensation on higher side. He submits that in the present proceeding insurance company is challenging the award passed by the Tribunal on the ground of the breach of condition of the insurance policy. He submits that in view of breach of insurance policy, the insurance company is not liable to pay any compensation to the claimant. He submits that they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court pleased be stayed the operation and implementation of impugned order dated 11.11.2014. He submits that if stay is not granted, irreparable loss and injury will be caused to the applicant.

4 The learned Counsel for the applicant submits that applicants are ready and willing to deposit entire awarded amount in the Tribunal within six weeks from today. Statement is accepted.

5 In the present proceeding, in accident which occurred on 02.11.2006, the claimant sustained multiple injury and because of that he sustained 85% permanent disability. Due to accident, he was in hospital from 02.11.2006 to 05.12.2006. The claimant spent more than Rs.2,50,000/- for taking medical treatment.

6 Considering the fact that claimant sustained

85% permanent disability and he has spent huge amount on medical treatment, I am of the opinion that claimant is entitled to withdraw some amount without furnishing any security.

7 Hence, the following order.

a) The operation and implementation of impugned award dated 11.11.2014 passed by the the Motor Accident Claims Tribunal, Mangaon, Dist. Raigad in M.A.C.P No. 1001 of 2008 (old no. 753 of 2006), is stayed on condition that applicant to deposit the entire decretal amount including interest and cost, if any, in the Tribunal within six 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, at present the respondent claimant is entitled to withdraw sum of Rs. 2,50,000/- with accrued interest without furnishing any security, subject to outcome of the First Appeal.

d) Liberty granted to the respondent claimant to prefer an appropriate application, if he so desire, for withdrawal of further amount and that

application will be decided on its own merits.

e) 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.

f) The Registry of this Court is directed to transfer the amount of Rs.25,000/- with interest if any, which was deposited by the applicant at the time of filing of First Appeal, to the Tribunal in the account of M.A.C.P. No. 1001 of 2008.

g) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)