

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

**CIVIL APPLICATION NO. 1536 OF 2015
IN
FIRST APPEAL (ST) NO. 11715 OF 2015**

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

Mr. A. P. Kulkarni for the applicant.

**CORAM : K. K. TATED, J.
DATED : 22/04/2015.**

PC.:

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

2 The learned counsel for the applicant submits that respondent claimant filed Execution Application no. 9 of 2015 for recovery of the awarded amount. He submits that the next date of the said Execution Application is tomorrow i.e. 23.04.2015. Hence, there is an urgency.

3 This application is for stay of operation and implementation of impugned the judgment and award dated 10.01.2014 passed by M.A.C.T. & District Judge-2, Thane in M.A.C. No. 942 of 2007 awarding the compensation of Rs.30,73,376/- with 7% interest from the date of filing of petition till its

realisation.

4 The learned counsel for the applicant submits that initially the Tribunal by judgment and award dated 10.01.2014 awarded sum of Rs.4,00,376/- with 7% interest by way of compensation. He submits that later on respondent claimant filed application below Exh.12 on 17.07.2014 for review of the earlier order. He submits that the Tribunal by its order dated 02.12.2014 allowed the application below Exh.12, held that claimant is entitled to Rs.30,73,376/- by way of compensation. He submits that Tribunal has awarded compensation on higher side. He submits that the Tribunal has considered the permanent disability to the extent of 50%, though the same is not supported by any evidence on record. He submits that they have good chance of success in the present proceeding.

5 The learned Counsel for the applicant further submits that if the entire amount is withdrawn by the respondent claimant in execution application, then nothing will survives in the present proceeding. He submits that he received instructions from the applicant that they are ready and willing to deposit entire awarded amount with interest and costs in the Tribunal within six weeks from today. The statement is accepted.

6 As this order is passed without issuing notice

to the respondent claimant, liberty granted to him to take out appropriate application, if he so desire, for withdrawal of the amount and that application will be decided on its own merits.

7 Considering the reasoning given by the Trial Court, I am of the opinion that at present the respondent claimant is entitled to withdraw 25% amount without furnishing any security.

8 Hence, the following order.

ORDER

a) The operation and implementation of impugned Judgment and Award dated 10.01.2014 passed by the Motor Accident Claims Tribunal, & District Judge-2, Thane in MAC No. 942 of 2007, is stayed on condition that applicant to deposit the entire awarded 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 can proceed with the execution application according to law.

c) If amount is deposited within stipulated time as stated herein above, respondent claimant is entitled to withdraw 25% amount without furnishing any security, but subject to the outcome of

the First Appeal.

d) 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.

e) Liberty granted to the respondent claimant to take out appropriate application, if he so desire, for withdrawal of the amount and that application will be decided on its own merits.

g) Civil Application is disposed of accordingly.

(K.K.TATED, J.)