

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

**CIVIL APPLICATION NO. 1632 OF 2015
IN
FIRST APPEAL (ST). NO. 12196 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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Mrs. Suchita Ghaisas i/b D. S. Joshi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 30/04/2015.**

P.C.:

. 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 the respondent claimant filed Execution notice No. 71 of 2014 for recovery of awarded amount. She submits that if entire amount is recovered by the respondent claimants in execution notice, then nothing will survive in the present proceeding. Hence, she has mentioned the matter for urgent order.

3 This application is preferred by the insurance company for stay of operation and implementation of judgment and award dated 22.07.2014 passed by

M.A.C.T. Raigad in M.A.C.P No. 449 of 2008.

4 The learned counsel for the applicant submits that in the present proceeding, the Tribunal has awarded compensation on higher side. She submits that they have good chance of success in the present proceeding. The Tribunal has not considered evidence on record for coming to the conclusion that respondent claimant is entitled to sum of Rs.9,20,982/- by way of compensation.

5 The learned counsel for the applicant submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire awarded amount within four weeks from today. Statement is accepted.

6 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and after going through the impugned judgment and award passed by the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7 In the present proceeding, the respondent claimant sustained the injury. On the date of accident i.e. 01.05.2008, he was 25 years old. It is the case of the respondent claimant that he incurred Rs.2,25,000/- towards medical expenses. Hence, the respondent claimant filed application under 166 of M. V. Act claiming compensation of Rs.10,00,000/-.

8 The claimant was working with M/s. Premium Hatcheries and Farms Pvt. Ltd. and was getting salary of Rs.5,000/- per month.

9 Considering this fact, I am of the opinion that the respondent claimant is entitled to withdraw some amount without furnishing any security with liberty to prefer an appropriate application for withdrawal of further amount, if he so desire, and that application will be decided on its own merits.

10 Hence, the following order.

a) The operation and implementation of the impugned judgment and award dated 22.07.2014 passed by M.A.C.T. Raigad in M.A.C.P. No. 449 of 2008, is stayed on condition that applicant insurance company to deposit the entire awarded amount including interest in 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 proceed with execution notice no. 71 of 2014 according to law.

c) If amount is deposited within stipulated time as stated herein above, the respondent claimant is entitled to withdraw sum of Rs.3,00,000/- with accrued interest without furnishing any security.

d) Liberty granted to the respondent claimant to prefer an appropriate application for withdrawal of further amount, if he so desire, 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) Civil Application is disposed of accordingly.

(K.K.TATED, J.)