

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

**CIVIL APPLICATION NO. 2108 OF 2015
IN
FIRST APPEAL (ST.) NO. 11655 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. Poonam Mital for the applicant.

**CORAM : K. K. TATED, J.
DATED : 16/06/2015.**

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 Judgment and Award dated 08.10.2014 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P. No. 63 of 2010 awarding sum of Rs. 1,91,500/- with 7.5% interest p.a. by way of compensation.

3 The learned Counsel for the applicant submits that respondents claimants filed execution application for recovery of entire awarded amount. She submits that if entire amount is recovered by the respondents claimants, nothing will survive in the present proceeding. Hence, he has mentioned the matter for urgent order.

4 The learned Counsel for the applicant submits

that the Tribunal has awarded compensation on higher side. She submits that in the present proceeding, the respondent claimant failed to place on record his income proof. She submits that the claimant was working as Chit boy and also doing agriculture work. She submits that to that effect the claimant has not placed on record any documentary evidence. Not only that, the Tribunal has not considered the negligence at the time of awarding compensation. She submits that they have good chance of success in the present proceeding.

5 The learned Counsel for the applicant further submits that she received instructions from the insurance company to make a statement that they are ready and willing to deposit the awarded amount before the Tribunal within four weeks from today. The statement is accepted.

6 In the present proceeding, in a accident which occurred on 24.01.2010 the claimant sustained 22% permanent disability. Due to accident, the claimant was indoor patient between 24.01.2010 to 30.01.2010 in Ashwini Sahakari Rugnalaya & Sanshodhan Kendra, Solapur.

7 Considering this fact, I am of the opinion that claimant is entitled to withdraw some amount during pendency of the First Appeal.

8 Hence, the following order.

a) The operation and implementation of the Judgment and Award dated 08.10.2014 passed

by the Motor Accident Claims Tribunal, Solapur in M.A.C.P. No. 63 of 2010, is stayed on condition that insurance company have to deposit the entire awarded amount before 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, the claimant Shri. Laxman Bhimrao Mhamane is entitled to withdraw 40% amount without furnishing any security.

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 further orders.

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

f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)