

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

CIVIL APPLICATION NO.1754 OF 2015
IN
FIRST APPEAL (ST) NO.13553 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. Deepika Motagi i/b. Respondent Juris for the Applicant

CORAM : K. K. TATED, J.

DATE : MAY 8, 2015

P.C.:

1. Mentioned. Not on board. At the request of the learned counsel for the Applicant, taken on board for urgent orders.

2. This Application is for stay of the operation and implementation of the impugned judgment and award dated 28/12/2014 passed by the MACT Pune in MACP No.6/2011 by which the Tribunal awarded sum of Rs.3,25,740/- with 9% p.a. interest in favour of the Respondent-Claimant.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application No.44/2015 for recovery

of the awarded amount. She submits that if awarded amount is recovered in the Execution Application, nothing will survive in the present appeal.

4. The learned counsel for the Applicant submits that the Tribunal awarded sum of Rs.3,25,740/- as a compensation without considering the evidence on record. She submits that even the cover note of the policy placed on record filed by the Respondent-Claimant is not genuine. Same is not issued by the Insurance Co. She submits that considering these facts, it is clear that the Applicant Insurance Co. is not liable to pay any compensation. She submits that the Applicant has good chance of success in the matter. In the interest of justice, this Hon'ble Court be pleased to stay the impugned judgment and award.

5. It is to be noted that, in the present proceedings, in an accident which occurred on 19/04/2010 the Respondent-Claimant sustained multiple injuries and he sustained 70% permanent disability. On the date of accident Respondent-Claimant was working in Hindustan Antibiotics Ltd., Pimpri as a fire technician. On the basis of these facts, the Respondent-Claimant filed

Application under section 166 of the Motor Vehicles Act for compensation of Rs.10 lacs.

6. Considering these facts and as there is delay in filing the First Appeal, I am of the opinion that the Respondent-Claimant is entitled to withdraw 50% of the awarded amount without furnishing any security, subject to out come of the present appeal.

7. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 28/12/2014 passed by the MACT Pune in MACP No.6/2011 is stayed, subject to the Applicant Insurance Co. depositing the entire awarded amount with interest, costs, if any, within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the amount is not deposited within stipulated time as stated hereinabove, the Respondent-Claimant will be entitled to execute the award as per law.

c. If the amount is deposited within stipulated time as stated hereinabove, the Respondent-

Claimant is entitled withdraw 50% of the awarded amount without furnishing any security, subject to outcome of the present appeal.

d. The Respondent-Claimant is entitled to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on merits.

e. The Tribunal is directed to invest the remaining amount in fixed deposit account of any Nationalized Bank, initially for a period of 1 years, which shall be renewed from time to time, till hearing and final disposal of the present appeal.

f. Civil Application stands disposed of accordingly.

JUDGE