

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.
CIVIL APPLICATION NO.2704 OF 2015
IN
FIRST APPEAL (ST) NO.21070 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.Yogita Deshmukh i/b Mr. M. M. Sathaye for the applicant.

**CORAM : K. K. TATED, J.
DATED : 13/08/2015.**

PC.:

1. Not on board. At the request of the learned advocate for the applicant taken on board for urgent orders.

2. This application is preferred by the Insurance Company for stay of operation and implementation of award dated 27/11/2014 passed by the the Learned District Judge-7 and Additional Member, Motor Accident Claim Tribunal, Thane in M.A. C. P. No.79/2010 by which the Tribunal held that the respondent No.1 claimant is entitled to Rs.3,00,000/- with interest @ 7% p.a. by way of compensation.

3. Learned counsel for the applicant submits that respondent no.1 claimant has filed Execution

Application No.40/2015. She submits that if entire amount is recovered by respondent No.1 claimant, nothing will survive in this application hence the urgency. She submits that the Tribunal erred in coming to the conclusion that Insurance company is liable to pay compensation of Rs.3,00,000/- to respondent no.1 though they brought on record that driver on the date of accident was not holding valid license. In support of her contention the learned counsel rely on paragraph 8 of the impugned award. She submits that they have good chance of success in the present matter. She submits that in the interest of justice operation and implementation of the impugned award dated 27/11/2014 be stayed.

4. The learned counsel for the applicant submits that she has received instructions from the Insurance Company that they are ready and willing to deposit compensation of Rs.3,00,000/- with interest within 4 weeks in Tribunal. Statement is accepted.

5. In the present proceeding, accident had occurred on 28/09/2009 and Keerthika Surendrasingh Adhikari, a minor child aged 6 years studying in 1st standard died. Considering the claim application filed by mother of the deceased, the order passed by the Tribunal and as there is delay on the part of Insurance Company to file the First

Appeal in this court, I am of the opinion that claimant is entitled to withdraw same amount without furnishing any security. Hence the following order.

(a) The operation and implementation of the impugned award dated 27/11/2014 passed by the Tribunal in MACP No.79/2010 is stayed till further orders on condition that the Insurance Company deposits the entire awarded amount with interest and cost in the Tribunal within 4 weeks, failing which the Civil Application shall stand dismissed without referring to Court.

(b) If amount is not deposited within the stipulated time, the respondent no.1 claimant to proceed with the Execution Application No.40/2015 for recovery of the awarded amount.

(c) If the amount is deposited, as stated hereinabove, the respondent no.1 claimant is entitled to withdraw 50% amount without furnishing any security subject to outcome of the First Appeal.

(d) Liberty granted to the respondent claimant to take out appropriate application, if they so desire, for withdrawal of the further

amount and that application will be decided on its own merits.

(e) The Tribunal is directed to invest the awarded amount in Fixed Deposit of any nationalized bank, initially for the period of 1½ years and the same to be continued till hearing and final disposal of the First Appeal.

(f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)