

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

CIVIL APPLICATION NO.793/2015
IN
FIRST APPEAL (ST) NO.14204/2014

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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Mr. Ramesh Cheulkar for the Applicant

CORAM : K. K. TATED, J.
DATE : AUGUST 10, 2015

P.C.:

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

2. This Application is preferred by the Insurance Company for stay of the operation and implementation of the judgment and award dated 07/09/2012 passed by MACT, Mumbai in Petition No.1813/2007 awarding sum of Rs.2,36,500/- with 7.5% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent-claimant filed Execution Application for recovery of the award amount, wherein the Executing Court has issued an

attachment warrant. He submits that if entire award amount is recovered in the Execution Application nothing will survive in the present proceedings.

4. The learned counsel for the Applicant submits that they already deposited the entire award amount with interest in the Tribunal. Statement is accepted.

5. The learned counsel for the Applicant submits that at the time of awarding compensation, the Tribunal has not considered the fact that the driver of the motor cycle was not holding valid driving license. He submits that in spite of that, the Tribunal held that the Insurance Company is liable to pay compensation. He submits that the Tribunal has awarded compensation on higher side. He submits that the Applicant has good chance of success. He submits that if stay is not granted, irreparable loss, harm and injury will be caused to the Applicant.

6. In the present proceedings, in an accident which occurred on 24/02/2007 the Respondent-claimant lost their son who was studying in B.Com-I. Hence, the Respondent-claimant filed

Application under section 166 of the Motor Vehicles Act for compensation and damages with interest.

7. Considering the fact that the claimant lost their son in an accident and as there is delay on the part of the Insurance Company to file the present appeal, I am of the opinion that the Respondent-claimants are entitled to withdraw some amount without furnishing any security.

8. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 07/09/2012 passed by MACT, Mumbai in Petition No.1813/2007 is stayed till hearing and final disposal of the appeal.

b. The Respondent-claimants Mr. Dinesh Pannalal Aggarwal and Smt. Suman Dinesh Aggarwal are entitled to withdraw 25% each without furnishing any security subject to outcome of the appeal.

c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits

d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one and half year and the same shall be renewed from time to time till further orders.

e. Civil application stands disposed off accordingly.

JUDGE