

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

**CIVIL APPLICATION NO. 2711 OF 2015
IN
FIRST APPEAL NO. 915 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. Jyoti Bajpayee for the applicant.

**CORAM : K. K. TATED, J.
DATED : 14/08/2015.**

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 Award dated 12.12.2014 passed by the Motor Accident Claims Tribunal, Thane in M.A.C.P. No. 741 of 2009 holding that the respondents-claimants are entitled to Rs.1,31,818/- with 7% interest per annum by way of compensation.

3 The learned Counsel for the applicant submits that the respondents-claimants filed execution application no. 16 of 2015 for recovery of awarded amount. She submits that if the entire awarded amount is recovered by the claimants in execution

application, nothing will survive in the present proceeding.

4 The learned Counsel for the applicant submits that the Tribunal erred in coming to the conclusion that the Insurance Company is liable to pay compensation of Rs.1,31,818/- with 7% interest per annum to the respondents-claimants, though they brought on record that driver of the offending vehicle was not holding valid licence on the date of accident. She submits that Tribunal has awarded compensation on the higher side.

5 The learned Counsel for the applicant submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of the impugned award till the hearing and final disposal of the First Appeal.

6 The learned Counsel for the insurance company submits that she received instructions from the insurance company that they are ready and willing to deposit entire awarded amount in Tribunal within four weeks from today. The statement is accepted.

7 In the present proceeding, in the accident which occurred on 21.06.2009 Master Pratham Pramod Patil sustained injuries. Hence, the claimants filed application under Section 166 of M.V. Act for compensation. The Tribunal has awarded

Rs.1,31,818/- with 7% interest per annum by way of compensation.

8 Considering the reasons given by the Tribunal in Award dated 12.12.2014, I am of the opinion that respondent-claimant is entitled to withdraw some amount without furnishing any security, but subject to the outcome of the First Appeal.

9 Hence, the following order is passed:

a) The operation and implementation of impugned Award dated 12.12.2014 passed by the Motor Accident Claims Tribunal, Thane in M.A.C.P. No. 741 of 2009 is stayed on condition that applicant Insurance Company to deposit the entire awarded amount with interest and cost in 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 claimant is entitled to proceed with the execution application according to law.

c) If amount is deposited within stipulated time as stated herein above, the claimant is entitled to withdraw 25% amount, without furnishing any security but subject to the outcome of the First Appeal.

d) Liberty granted to the respondent

claimant to take out appropriate application, if he so desire, for withdrawal of further amount 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 and half year and same to be continued till hearing and final disposal of the First Appeal.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)