

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

CIVIL APPLICATION NO.2515/2015
IN
FIRST APPEAL NO.843/2015

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 pandey for the Applicant

CORAM : K. K. TATED, J.
DATE : JULY 31, 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 Co. for stay of the operation and implementation of the impugned award dated 12/12/2014 passed by the MACT, Thane in MACP No.740/2009 awarding sum of Rs.1,56,000/- with 7% pa interest by way of compensation in favour of the Respondent-Claimant.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed

Execution Application for recovery of the entire award amount. She submits that next date in the Trial Court is 09/08/2015. Hence, there is urgency.

4. The learned counsel for the Applicant submits that in the present proceedings, the driver of the offending vehicle was not holding a valid license. In support of this contention, she relies on paragraph 11 of the impugned award. On the basis of this submission, the learned counsel for the Applicant submits that the Insurance Co. is not liable to pay compensation because of violation of terms of the insurance policy. She submits that if stay is not granted irreparable loss and injury will be caused to the Applicant. She submits that the Applicant has good chance of success in the matter. She further submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire award amount, along with cost, interest, if any, in the Tribunal within 4 weeks from today. Statement is accepted.

5. Considering the submissions made by the learned counsel for the Applicant and as the Applicant is ready and willing to deposit the entire decretal amount in the Tribunal, I am of the

opinion that the Applicant has made out a case for allowing the Civil Application.

6. It is to be noted that in the present proceedings in an accident which occurred on 23/06/2009 the Respondent-Claimant sustained multiple fractures and also caused damaged to his motorcycle. He was in a hospital for several days. On the basis of these facts, the Respondent-Claimant filed claim petition u/s. 166 of the Motor Vehicles Act.

7. The Respondent-Claimant is entitled to withdraw 50% of the award amount without furnishing any security, subject to outcome of the First Appeal. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if he so desire, which will be decided on its own merits.

8. Hence, the following order is passed:

a. The operation and implementation of the impugned award dated 12/12/2014 passed by the MACT, Thane in MACP No.740/2009 is stayed, till further orders, subject to the Applicant depositing the entire award amount in the Tribunal within 4 weeks from today, failing which the Civil

Application shall stand dismissed without further reference to the court.

b. If amount is not deposited within stipulated time as stated hereinabove the Respondent-Claimants are entitled to proceed with Execution Application as per law.

c. If amount is deposited within stipulated time as stated hereinabove, Respondent-Claimant is entitled to withdraw 50% of the award amount, with accrued interest without furnishing any security, subject to outcome of the First Appeal.

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 which will be renewed from time to time till further orders.

e. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the further amount, if they so desire, which will be decided on its own merits.

f. Civil Application stands disposed off accordingly.

JUDGE