

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

CIVIL APPLICATION NO.3200 OF 2010
IN
FIRST APPEAL NO.193 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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Mr. S. R. Singh i/b. S. R. Singh & Co. for the Appellant

Mr. Omkar Paranjpe i/b. A. M. Gokhale for the Respondent No.4.

Mr. C. M. Lokesh for Respondent No.6.

CORAM : K. K. TATED, J.

DATE : FEBRUARY 12, 2015

P.C.:

1. Heard. This Application is preferred by the Cholamandalam MS General Insurance Co. Ltd. for stay of the operation and implementation of the impugned judgment and award dated 08/12/2009 passed by the MACT Mumbai under section 166 of the Motor Vehicles Act in MAC Application No.2954/2004 by which the Tribunal held that the Respondent claimants are entitled to Rs.28,30,000/- with 6% p.a. interest.

2. The learned counsel for the Applicant submits that the United India Insurance Co. has

also preferred First Appeal No.1975/2011 challenging the judgment and award dated 08/12/2009. He further submits the Tribunal held that the Applicant as well as the United India Insurance Co. are jointly and severally liable to pay compensation to the Respondent claimants. He further submits the United India Insurance Co. preferred Civil Application for stay of the impugned judgment and award. In that Application this court granted ad-interim relief. They deposited some amount in the Tribunal. He submits the Applicant M/s. Chola mandalam MS General Insurance Co. Ltd. undertakes to deposit the remaining decretal amount, if any, in the Tribunal within four weeks from today. Statement is accepted.

3. The learned counsel for the Applicant submits that the Respondent claimants filed Execution Application and if they withdrawn the entire decretal amount in the Execution proceedings nothing will survive in the present proceedings.

4. Considering the submissions made by the learned counsel for the Applicant and the undertaking given by them that they are ready and

willing to deposit the entire remaining decretal amount in the Tribunal as per judgment and award dated 08/12/2009, I am of the opinion that they made out a case for stay of the operation and implementation of the impugned award.

5. Liberty granted to the Respondent – claimants to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

6. Hence, the following order:

a) The operation and implementation of the impugned judgment and award dated 08/12/2009 passed by the MACT Mumbai in MAC Application No.2954/2004 is stayed till hearing and final disposal of the First Appeal, subject to the Applicant depositing the remaining decretal 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 deposited within stipulated time as stated hereinabove, liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

c) If amount is not deposited within stipulated time as stated hereinabove, the Respondent – claimant is entitled to execute the judgment and award as per law against the Applicants.

d) If amount is deposited within stipulated time as stated hereinabove, the Tribunal is directed to invest the amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till hearing and final disposal of the appeal.

e) Civil Application stands disposed off accordingly.

JUDGE