

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

**CIVIL APPLICATION NO. 2401 OF 2014
IN
FIRST APPEAL NO. 790 OF 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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Ms. S.S. Dwivedi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 08/07/2015.**

PC.:

. Heard learned Counsel for the applicant.

2 This application is preferred by insurance company for stay of operation and implementation of award dated 02.04.2014 passed by the Motor Accident Claims Tribunal, Mumbai below Application no. 1630 of 2012 under Section 140 of M.V. Act directing insurance company to deposit sum of Rs.50,000/- with 9% interest by way of compensation.

3 The learned Counsel for the applicant submits that the victim was traveling as gratuitous passenger in vehical and whereas the policy was Act policy. Hence, occupant cannot be treated as third party. Therefore, insurance company is not liable to pay any compensation. In support of this contentions,

she relies on the judgment in the matter of ***United India Insurance Co. Ltd. v/s. Manohar Mahadeo Kaphale & Anr. reported in 2012 ACJ 1880.***

4 The learned Counsel for the applicant submits that in view of the above mentioned fact, this Hon'ble Court be pleased to stay the operation and implementation of impugned order dated 02.04.2014 passed by the Tribunal.

5 Considering the submissions made by the learned Counsel for the applicant, averments made in Civil Application and law laid down in the matter of ***United India Insurance Co. Ltd.*** (supra), I am satisfied that applicant has made out case for stay, but at the same time, applicant have to deposit entire awarded amount in the Tribunal within four weeks from today.

6 Hence, the following order.

a) The operation and implementation of impugned Award dated 02.04.2014 passed by the Motor Accident Claims Tribunal, Mumbai below Exh.2 in Application no. 1630 of 2012 is stayed on condition that applicants have to deposit the entire awarded amount 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 deposited within stipulated time as stated herein above, liberty granted to the

respondents claimants to take out appropriate application, if they so desire, for withdrawal of the amount and that application will be decided on its own merits.

c) The Tribunal is directed to invest the entire awarded amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

d) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)