

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

CIVIL APPLICATION NO.2454 OF 2012
IN
FIRST APPEAL NO.648 OF 2013

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. Devendranath S. Joshi for the Applicant
Mr. T. J. Mendon for the Respondent.

CORAM : K. K. TATED, J.
DATE : JUNE 24, 2015

P.C.:

1. Heard. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 04/08/2011 passed by the MACT, Mumbai in MACP No.3487/2009 awarding sum of Rs.46,494/- with 7.5% p.a. interest by way of compensation.

2. The learned counsel for the Applicant submits that in the present proceedings the accident occurred on 13/02/1999 and the policy was issued on 15/02/1999, therefore, the Applicant is not liable to pay compensation. This fact was not considered by the Tribunal properly.

3. The learned counsel for the Applicant submits that pursuant to the order dated 25/07/2012 passed by this court, they deposited the entire award amount in the Trial Court. Hence, pending the hearing and final disposal of the present appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award.

4. On the other hand, the learned counsel for the Respondent No.1 claimant vehemently opposed the present Civil Application. He submits that the copy of the policy placed on record by the Applicant itself was forged. These facts are considered by the Tribunal. He further submits that, the Trial Court has specifically recorded that the Insurance Co. has manipulated the date of policy. Hence, the Applicant is not entitled to any relief in the Civil Application.

5. Heard the learned counsel for the parties at length. It is to be noted that the Applicant Insurance Co. has already deposited the entire award amount in the Tribunal. Whether the Insurance Co. has manipulated the date in the policy or not, can be considered at the time of final hearing.

6. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7. Hence, the following order:

a) Civil Application is allowed in terms of prayer clause (a) which reads thus:

“(a) Pending the hearing and final disposal of the appeal, this Hon'ble Court, by an order of stay, may kindly stay the operation, implementation and execution of the impugned judgment and award dated 04/08/2011 passed by the MACT, Mumbai in MACP No.3487/1999.”

b) 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) The Tribunal is directed to invest the remaining 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.

JUDGE