

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

CIVIL APPLICATION NO.2424/2015
IN
FIRST APPEAL NO.782/2015

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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Mrs. Varsha K. Chavan for the Applicant

CORAM : K. K. TATED, J.
DATE : JULY 23, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant Insurance Co., the matter is taken on board for urgent orders.

2. This Application is preferred by the Insurance Co. for stay of the award dated 10/11/2014 passed by the MACT Solapur in MACP No.249/2011 holding that the Respondent-Claimants are entitled to Rs.4,72,000/- with 8% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application No.82/2015 for recovery of awarded amount. She submits that if entire

amount is recovered by the claimant in Execution Application, nothing will survive in the present proceedings.

4. The learned counsel for the Applicant submits that in an accident which occurred on 10/02/2011 Aniket Rajendra Doifode, son of claimant died. On the date of accident, he was 20 years old and was working as a clerk with Saraswati Oil Mill, Tilavani, Tq. hatkanangale, Dist. Kolhapur and was getting salary of Rs.3000/- pm. She submits that the motor vehicle bearing No.MH-09/BT-3797 involved in the accident was belonging to the father of the deceased. The deceased was riding the vehicle. She submits that as per the terms and conditions of the insurance policy, the driver of the offending vehicle was not covered. Hence, they are not liable to pay compensation. These facts are not considered by the Tribunal at the time of awarding compensation.

5. The learned counsel for the Applicant submits that if entire amount is recovered by the Respondent-Claimant in Execution Application, nothing will survive in the present proceedings. She submits that the Applicant has good chance of success in the matter.

6. The learned counsel for the Applicant submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire awarded amount in the Tribunal within 4 weeks from today. Statement is accepted.

7. The learned counsel for the Applicant further submits that a sum of Rs.25000/- deposited by the Applicant Insurance Co. at the time of filing the present appeal be transferred to the Tribunal.

8. As this order is being passed without issuing any notice to the Respondent-Claimant, liberty granted to them to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

9. Considering the submissions made by the learned counsel for the Applicant, following order is passed:

a. The operation and implementation of the impugned award dated 10/11/2014 passed by the MACT Solapur in MACP No.249/2011 is stayed subject to the Applicant depositing the entire awarded amount including interest, cost, if any, within 4 weeks from today, failing which the Civil

Application shall stand dismissed without further reference to the court.

b. The Tribunal is directed to invest the entire awarded 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 further orders.

c. 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.

d. Amount of Rs.25000/- deposited by the Applicant Insurance Co. at the time of filing the present appeal shall be transferred to the Tribunal, with accrued interest, if any.

e. Civil Application stands disposed off accordingly.

JUDGE