

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

CIVIL APPLICATION NO.2603/2015
IN
FIRST APPEAL (ST) NO.16213/2015

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. A. J. Gandwal i/b. S. S. Dwivedi for the Applicant

CORAM : K. K. TATED, J.

DATE : AUGUST 5, 2015

P.C.:

1. This Application is preferred by Insurance Co. for stay of the operation and implementation of the impugned award dated 31/10/2014 passed by the MACT, Pune in MACP No.547/2009 holding that the Respondent-Claimant is entitled to Rs.18,78,657/- with 9% p.a. interest by way of compensation.

2. The learned counsel for the Applicant submits that the Tribunal failed to appreciate that the driver of the offending vehicle was not holding valid licenses. Hence, the Insurance Co. is not liable to pay compensation. He submits that the Tribunal has awarded compensation on higher side. He submits that the Applicant has good

chance of success in the present matter and if Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant.

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

4. In the present proceedings, in an accident which occurred on 28/06/2008 the claimant Mast. Ronak Sunil Barman sustained injuries. He was a sportsman and specialized in cycle racing. Considering this fact and since there is delay on the part of the Insurance Co. to file the appeal, I am of the opinion that the Respondent-Claimant is entitled to withdraw some amount.

5. Hence, following order is passed:

a. The operation and implementation of the impugned award dated dated 31/10/2014 passed by the MACT, Pune in MACP No.547/2009 is stayed subject to the Applicant depositing the entire award amount with costs and interest, if any, 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-Claimant is entitled to execute the award as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimant is entitled to withdraw 50% of the award amount with 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 he so desire, which will be decided on its own merits.

f. Civil Application stands disposed off accordingly.

JUDGE