

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

**CIVIL APPLICATION NO. 2203 OF 2015
IN
FIRST APPEAL (ST.) NO. 16794 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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Ms. Yogita Deshmukh i/b M.M. Sathaye for the applicant.

**CORAM : K. K. TATED, J.
DATED : 30/06/2015.**

P.C.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by insurance company for stay of operation and implementation of the award dated 07.02.2015 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 1293 of 2008 holding that respondent claimant is entitled to Rs.11,00,000/- with 9% interest by way of compensation.

3 The learned Counsel for the applicant submits that the respondent claimant filed execution

application for recovery of awarded amount. She submits that if the entire awarded amount is recovered by the claimant in execution application, nothing will survive in the present proceeding. Hence, there is an urgency in the present matter.

4 The learned Counsel for the applicant submits that the Tribunal erred in coming to the conclusion that the respondent claimant is entitled to Rs.11,00,000/- by way of compensation. She submits that the driver of the offending vehicle was not holding valid license. Hence, insurance company was not liable to pay any compensation. She submits that they have good chance of success in the present proceeding.

5 The learned Counsel for the applicant further submits that she has received instructions from the insurance company that they are ready and willing to deposit entire awarded amount in the Tribunal within four weeks from today. Statement is accepted.

6 In the present proceeding, the accident occurred on 04.06.2008 in which the respondent claimant sustained multiple fractures and injuries. Because of that, he was in hospital. He was on

ventilator for 8 days. He incurred Rs.3,80,000/- towards hospitalisation charges and Rs.2,80,000/- towards the purchase of medicine. At the time of accident, he was doing business and earning Rs.20,000/- to Rs.30,000/- per month. He was also doing agricultural activities. Considering this fact and as there is delay on the part of insurance company in filing First Appeal, I am of the opinion that the claimant is entitled to withdraw sum of Rs.6,00,000/- without furnishing any security, but subject to the outcome of the First Appeal.

8 Hence, the following order.

a) The operation and implementation of impugned award dated 07.02.2015 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 1293 of 2008 is stayed on condition that applicant to deposit 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 not deposited within stipulated time as stated herein above, the respondent claimant is entitled to proceed with execution proceeding according to law.

c) If amount is deposited within stipulated time as stated herein above, the respondent claimant

is entitled to withdraw sum of Rs.6,00,000/- without furnishing any security, but subject to the outcome of the First Appeal.

d) The Tribunal is directed to invest the remaining 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.

e) Liberty granted to the respondent claimant to take out appropriate application, if he so desire, for withdrawal of the further amount and that application will be decided on its own merits.

d) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)