

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

**CIVIL APPLICATION NO. 2553 OF 2015
IN
FIRST APPEAL (ST.) NO. 17185 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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Mrs. Urmila Sanil for the applicant.

**CORAM : K. K. TATED, J.
DATED : 14/08/2015.**

PC.:

. Heard learned Counsel for the applicant.

2 This application is preferred by Insurance Company for stay of operation and implementation of Award dated 13.10.2014 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 538 of 2012 holding that the respondent-claimant is entitled to compensation of Rs. 16,14,077/- with 9% interest per annum.

3 The learned Counsel for the applicant submits that respondent-claimant has filed execution application in which the warrant of attachment is already issued. She submits that if entire amount is recovered by respondent-claimant, nothing will survives in the present proceeding.

4 The learned Counsel for the applicant further

submits that the Trial Court has awarded compensation on higher side. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned award till pending the hearing and final disposal of the First Appeal.

5 It is to be noted that in the accident which occurred on 27.11.2010 the respondent claimant sustained 55% permanent disability as assessed by Dr. Kishor Gohlar as per certificate at Exh.102.

6 The respondent/claimant was working as Deputy General Manager at Birla Corporation Ltd and his salary was Rs.9 lacs per annum.

7 Considering this fact and as there is delay of 114 days on the part of Insurance Company, I am of the opinion that respondent claimant is entitled to withdraw 30% of amount without furnishing any security but subject to the outcome of the First Appeal.

8 Hence, the following order is passed:

a) The operation and implementation of Award dated 13.10.2014 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 538 of 2012, is stayed on condition that applicant Insurance Company to deposit entire awarded amount with interest and costs, if any, in the Tribunal within six 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, respondent claimant can proceed with the execution application according to law.

c) If amount is deposited within stipulated time as stated herein above, respondent claimant Mr. Vijay Uttamrao Bramhapurikar is entitled to withdraw 30% of amount without furnishing any security but subject to the outcome of First Appeal.

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

e) The Registry of this Court is directed to transfer the amount of Rs.25,000/- with interest if any, which was deposited by the applicant at the time of filing of First Appeal, to the Tribunal in the account of M.A.C.P No. 538 of 2012.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)