

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

**CIVIL APPLICATION NO. 2327 OF 2015
IN
FIRST APPEAL NO. 753 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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Mr. D.S. Joshi for the applicant.

Mr. V. M. Parkar for the respondent no.1

CORAM : K. K. TATED, J.

DATED : 16/07/2015.

P.C.:

. Heard learned Counsel for the parties.

2 This Application is preferred by Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 05.02.2015 passed by M.A.C.T. Vasai in M.A.C.P. No. 88 of 2011.

3 The learned counsel for the applicant submits the Tribunal erred in coming to the conclusion that the Insurance Company is liable to pay compensation. He submits that the driver of the offending vehicle was not holding the valid licence on the date of accident. In spite of that, the Tribunal held that Insurance Company is liable to pay compensation. He submits that claimant has not

placed any documentary proof to show his annual income from the business. He submits that the claimant failed to produce any documentary evidence about his income for the year 2007-08, 2008-09 and thereafter. He submits that inspite of that the Tribunal held that the claimant is entitled to 30% compensation for future prospect. He submits that the applicant has good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned award passed by the Tribunal. He submits that Insurance Company is ready and willing to deposit the entire awarded amount in Tribunal within four weeks from today. The statement is accepted.

4 On the other hand the learned counsel appearing on behalf of respondent no.1 vehemently opposed the present Civil Application . He submits that the Tribunal after considering the evidence on record held that the claimant is entitled to sum of Rs.16,60,000/- with 8% interest by way of compensation.

5 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 on condition that they have

to deposit the entire awarded amount in the Tribunal.

6 The learned counsel for the Respondent no.1 submits that this Hon'ble Court be pleased to allow the applicant to withdraw at least sum of Rs.1,42,425.50 which was spent by the claimant on medical expenses.

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

8 It is to be noted that the liberty already granted to the claimant to withdraw the amount. Considering this fact, the request made by the learned counsel for the claimant cannot be considered at present.

9 Hence, the following order.

a) The operation and implementation of impugned Award dated 05.02.2015 passed by M.A.C.T. Vasai in M.A.C.P. No. 88 of 2011, is stayed on condition that applicant to deposit the entire awarded amount including interest and costs in Tribunal within four 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 according to law.

c) If amount is deposited within stipulated time as stated hereinabove, liberty granted to the respondent claimant to take out appropriate application, if he so desire, for withdrawal of the amount and that application will be decided on its own merits.

d) In the meanwhile, the Tribunal is directed to invest the entire decretal amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till hearing and final disposal of the appeal.

e) Civil application stands disposed off accordingly.

(K.K.TATED, J.)