

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.3122 OF 2012
IN
FIRST APPEAL NO.871 OF 2013**

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.S.M.Dange for the applicant

CORAM : K.K.TATED, J.
DATED : 25/02/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 18.1.2012 passed by MACT, Karad in MACP No.36 of 2010.
- 3 The learned counsel for the applicant submits that pursuant to the order passed by this court they deposited entire decretal amount in the Tribunal.
- 4 Statement is accepted.
- 5 The learned counsel for the applicant submits that in the present proceeding, the Tribunal has not considered contributory negligence and awarded compensation on the higher side. He submits that

in the interest of Justice, this Honourable Court be pleased to stay the operation and implementation of the judgment and award passed by the Tribunal till the pendency of the present First Appeal. He submits that if amount is withdrawn by the respondent claimant, nothing will survive in the present First Appeal. He submits that they have good chance of success in the present appeal.

6 On the other hand the learned counsel for the respondent claimant vehemently opposed the present Civil Application. He submits that the respondent claimant preferred Civil Application No.2187 of 2013 for withdrawal of the amount.

7 Considering the submissions made by the learned counsel for the applicant and the averments made in Civil Application, I am satisfied that the applicant has made out a case for allowing Civil Application. Hence, following order:

a) Operation and implementation of the impugned judgment and award dated 18.1.2012 passed by MACT, Karad in MACP No.36 of 2010 is stayed till the hearing and final disposal of the First Appeal.

b) Civil Application No.2187 of 2013 preferred by the respondent claimant for withdrawal of the amount be decided on its own merits.

c) Tribunal is directed to invest remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)