

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

CIVIL APPLICATION NO.1054 OF 2015
IN
FIRST APPEAL (ST) No. 19568 OF 2014

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. R. Mahadik i/b. S. R. Singh & Co. for the Appellant

CORAM : K. K. TATED, J.
DATE : MARCH 9, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 30/07/2013 passed by the MACT, Mumbai in MACP No.1878/2006 holding that the Respondents claimants are entitled to sum of Rs.33,94,600/- with 7.5% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent claimants filed Execution Application for recovery of the entire decretal amount. He submits that if the entire decretal amount is recovered in the Execution Application, nothing will survive in the present proceedings. He submits that he received instructions in writing from the Insurance Co. that they are ready and willing to deposit the entire decretal amount with interest, costs and expenses in the Tribunal within 2 weeks from today. Statement is accepted.

4. The learned counsel for the Appellant submits that the Tribunal awarded compensation in favour of the Respondent-Claimant on higher side. He submits that they have good chance of success in the present proceedings.

5. The learned counsel for the Applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the impugned judgment and award dated till hearing and final disposal of the appeal. He submits that if stay is not granted, the Applicant will suffer irreparable loss, harm and injury.

6. In the present proceedings, in an accident which occurred on 20/01/2006 the claimants lost their son Hitesh. On the day of accident, the deceased was of 28 years who was earning Rs.2,17,700/- p.a. plus house rent and bonus. Considering these facts, the Tribunal awarded sum of Rs.33,94,600/-. As there is delay in preferring the First Appeal and the reasons disclosed by the Tribunal, I am of the opinion that the Applicant claimant Nos. 1 and 2 are entitled to withdraw 25% each without furnishing any security. Hence, the following order:

a) The operation and implementation of the impugned judgment and award dated 30/07/2013 passed by the MACT, Mumbai in MACP No.1878/2006 is stayed subject to the Applicant depositing the entire decretal amount including interest and costs in the Tribunal within four weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b) If the decretal amount is not deposited within stipulated time as stated hereinabove, the Respondent – claimants are entitled to execute the decree as per law.

c) If the decretal amount is deposited within stipulated time as stated hereinabove, the Applicant No.1 Rajkumar Gokuldas Munot and claimant No.2 Mrs. Lata Rajkumar Munot are entitled to withdraw 25% each out of total compensation with accrued interest without furnishing any security.

d) Liberty granted to the claimants to prefer an appropriate Application for withdrawal of the remaining compensation amount, if they so desire, which will be decided on its own merits

e) The Tribunal is directed to invest the remaining 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.

f) An amount of Rs.25000/- deposited by the Appellant at the time of filing the present appeal be transferred to the Tribunal in the account of MACT No.1878/2006.

g) Civil application stands disposed off accordingly.

JUDGE