

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

CIVIL APPLICATION NO.3614 OF 2014
IN
FIRST APPEAL (ST) NO.24447 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. A. S. Vidyarthi for the Applicant
Mr. S. M. Payak for the Respondent Nos.1,2 and 4.
Mr. G. H. Keluskar i/b. D. H. Keluskar for Respondent No.3.

CORAM : K. K. TATED, J.
DATE : APRIL 17, 2015

P.C.:

1. Heard. This Appeal is preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 26/08/2013 passed by the MACT Mumbai in claim Application No.2966/2008.

2. The learned counsel for the Applicant submits that pursuant to the order dated 27/10/2014 passed by this court, they deposited the entire decretal amount in the Tribunal. Statement is accepted.

3. He further submits that the Tribunal by award dated 26/08/2013 awarded compensation in favour of the Respondent-Claimant at higher side. He submits that the Applicant has good chance of success in the matter. He submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal. If stay is not granted irreparable loss and injury will be caused to the Applicant.

4. The learned counsel for the Applicant submits that the amount of Rs.25,000/- deposited by the Appellant at the time of filing of the present appeal be transferred to the Tribunal.

5. On the other hand, the learned counsel for the Respondent-Claimant vehemently opposed the present Civil Application. He submits that the Tribunal, after considering the evidence on record held that the claimants are entitled to compensation of Rs.16,95,579/-. He submits that the Applicant has not made out any case for grant of stay. Hence, the Civil Application be dismissed with costs.

6. Heard both sides at length. It is to be noted

that if the amount is withdrawn by the Respondent-Claimant, nothing will survive in the present matter.

7. Considering the fact that the Applicant has already deposited the entire decretal amount in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the Civil Application. At the same time, liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 26/08/2013 passed by the MACT Mumbai in claim Application No.2966/2008 is stayed.

b. Respondent-Claimant Ms. Kainat Alam Jameel Ansari is entitled to withdraw sum of Rs.3 lacs along with accrued interest, at present, without furnishing any security.

c. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which

will be decided on its own merits.

d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till hearing and final disposal of the appeal.

e. Amount of Rs.25,000/- deposited by the Appellant at the time of filing of the present appeal be transferred to the Tribunal.

f. Civil Application stands disposed off accordingly.

JUDGE