

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

CIVIL APPLICATION NO.3550/2015
IN
FIRST APPEAL (ST) NO.28571/2015

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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Ms. Deepika Motagi i/b. Res Juris for the Applicant

CORAM : K. K. TATED, J.

DATE : OCTOBER 17, 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 made by Insurance Co. for stay of the operation and implementation of the impugned award dated 08/05/2015 passed by the MACT, Pune in MACP No.698/2010 by which the Tribunal awarded sum of Rs.17,23,400/- with 9% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application No.170/2015 for recovery of

entire award amount. She submits that if entire amount is recovered by the Respondent-Claimant in execution Application, nothing will survive in the present proceedings. Hence, there is urgency in the matter.

4. The learned counsel for the Applicant submits that in the present proceedings, the Respondent-Claimant lost their son in an accident. At the time of accident, he was 26 years old. She submits that the deceased was bachelor. Hence, at the time of deciding the multiplier the age of the parents should have been considered, which is not done in the present matter. In spite of that the Tribunal has considered the multiplier 18 which is contrary to the law declared by the Apex Court. She submits that in any case, the compensation awarded by the Tribunal is on higher side.

5. The learned counsel for the Applicant submits that the Applicant has good chance of success in the matter. She submits that if stay is not granted irreparable loss and injury will be caused to the Applicant. If entire amount is recovered by the Respondent in the execution proceedings, nothing will survive in the matter. She 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.

6. The learned counsel for the Applicant submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire award amount in the Tribunal within 4 weeks from today. Statement is accepted.

7. In the instant case, in an accident which occurred on 24/04/2010 one Ganesh Gangadhar Bhosale expired. Hence, the parents of the deceased filed Application u/s. 166 of the Motor Vehicles Act, 1988 for compensation of Rs.30 lacs. On the date of accident, the deceased was 26 years old. He had completed higher secondary education and was studying BA (External) and was working at Subhadra Education Society, SNBP High School and junior College, Pimpri, Pune as a Junior Clerk and was drawing salary of Rs.15,000/-. Considering these facts, the Tribunal awarded sum of Rs.17,24,400/- by way of compensation.

8. Considering the reasons given by the Tribunal, I am of the opinion that at present, the original claimants are entitled to withdraw some

amount without furnishing any security, subject to outcome of the First Appeal.

9. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 08/05/2015 passed by the MACT, Pune in MACP No.698/2010 is stayed subject to the Applicant depositing the entire awarded amount with costs and interest, if any, in the Tribunal within 4 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-Claimants are entitled to execute the impugned award in execution proceeding No.170/2015 as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimants are entitled to withdraw following amount, with interest without furnishing any security, subject to outcome of the First Appeal.

(a) Mrs. Chayya Gangadhar Bhosale 20%

(b) Mr. Gangadhar Kallappa Bhosale 20 %

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 further orders.

e. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the further amount, if they so desire, which will be decided on its own merits.

f. Civil Application stands disposed off accordingly.

JUDGE