

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

CIVIL APPLICATION NO.3552/2015
IN
FIRST APPEAL (ST) NO.30520/2014

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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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 16/01/2014 passed by the MACT, Pune in MACP No.847/2011 to the extent of Rs.2,50,000/-.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application No.158/2014 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 the Tribunal erred in coming to the conclusion that the Respondent-Claimant are entitled to compensation of Rs.5,75,000/- with 8% p.a. interest. She submits that in the present proceedings, in an accident which occurred on 09/08/2011 one Mr. Dhruv died on the spot. on the date of accident he was 11 years old. The Tribunal, at the time of fixing compensation considered the multiplier 18 which is on higher side. She further submits that in the present proceedings they are challenging the compensation awarded by the Tribunal only to the extent of Rs.2,50,000/-. She submits that the Applicant has good chance of success in the matter. She further submits that if stay is not granted irreparable loss and injury will be caused to the Applicant.

5. 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.

6. 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.

7. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 16/01/2014 passed by the MACT, Pune in MACP No.847/2011 is stayed subject to the Applicant depositing the entire award 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 as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimants are entitled to withdraw the entire amount except Rs.2,50,000/- with interest without furnishing any security.

d. The Tribunal is directed to invest the remaining amount of Rs.2,50,000/- with interest 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