

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

CIVIL APPLICATION No. 4251 OF 2012
IN
FIRST APPEAL NO.21 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. Nikhil Mehta i/b. KMC Legal for the Applicant
Mr. Abay Kumar Apte for the Respondent Nos.1 and 2.

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Heard the learned counsel for the parties. This Application is filed by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 05/05/2012 passed by the MACT, Pune in MACP No.351/2008.

2. The learned counsel for the Applicant submits that they already deposited the entire decretal amount in the Tribunal along with interest. Statement is accepted. He submits that if entire amount is withdraw by the Respondent-Claimant, nothing will survive in the present proceedings. Hence, during pendency of the First Appeal, the operation and implementation of the impugned judgment and award be stayed.

3. In the present proceedings, in an accident which occurred on 24/11/2007, the Respondent-Claimant sustained several injuries. Hence, he filed Application under section 166 of the Motor Vehicles Act for compensation of Rs.3 lacs.

4. Considering the evidence on record, the Tribunal awarded sum of Rs.2,08,642/- out of which sum of Rs.1,24,597/- is towards medical expenses and Rs.59,045/- towards hospital charges.

5. Considering these facts, I am of the opinion that at present the Respondent-Claimant is entitled to withdraw 30% of the awarded amount without furnishing any security with liberty to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on its own merits.

6. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 05/05/2012 passed by the MACT, Pune in MACP No.351/2008. is stayed till hearing and final disposal of the First Appeal.

b. The Respondent-Claimant is entitled to withdraw 30% amount without furnishing any security, subject to out come of the First Appeal.

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. The amount of Rs.25000/- deposited by the Applicant in this court at the time of admission of this appeal be transferred to the Tribunal.

f. Civil Application stands disposed off accordingly.

JUDGE