

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

CIVIL APPLICATION No. 4228 OF 2012
IN
FIRST APPEAL NO.357 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 30/04/2012 passed by the MACT, Pune in MACA No.135/2008 awarding sum of Rs.4,40,000/- with 9% p.a. interest towards compensation.

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 He submits that if entire amount is withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings. Hence, in the interest of justice, this

Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award.

3. In the present proceedings, in an accident which occurred on 24/11/2007, the Respondent-Claimant lost their son Mithil Dattatray Deshkar, who was of 24 years. He was working as a delivery boy and was getting salary of Rs.5000/- pm. On the basis of these facts, the claimants filed Application under section 166 of the Motor Vehicles Act for compensation of Rs.7,50,000/-. Considering the evidence on record, the Tribunal awarded sum of Rs.4,40,000/- with 9% p.a. interest.

4. Considering the fact that the Respondent-Claimant claimant lost their son in the accident who was getting salary of Rs.5000/- pm., I am of the opinion that the Applicants are entitled to withdraw 30% of the awarded amount without furnishing any security, subject to outcome of the appeal with liberty to file an appropriate Application for withdrawal of further 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 30/04/2012 passed by the MACT, Pune in MACP No.135/2008. is stayed till hearing and final disposal of the First Appeal.

b. The Respondent-Claimant No.1 Dattatraya Namdeo Deshkar and No.2 Smt. Purnima Dattatraya Deshkar are entitled to withdraw 30% each of the awarded amount with accrued interest, without furnishing any security, subject to outcome of the First Appeal.

c. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of further 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 be transferred to the Tribunal.

f. Civil Application stands disposed off accordingly.

JUDGE