

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

CIVIL APPLICATION NO.1771 OF 2014
IN
FIRST APPEAL NO.527 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. D. R. Mahadik for the Appellant

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

P.C.:

1. Heard. This Application is for stay of the operation and implementation of the impugned judgment and award dated 20/06/2013 passed by the MACT, Mumbai in MACP No.2461/2005 awarding sum of Rs.53000/- with 7.5% pa. interest by way of compensation.

2. The learned counsel for the Applicant submits that the Tribunal erred in coming to the conclusion that the Insurance Co. is liable to pay compensation. He submits that on the date of accident, the claimant was travelling in a goods vehicle. Hence, the Applicant is not liable to pay compensation. He submits that if entire amount is recovered 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 till hearing and final disposal of the appeal.

3. In the present proceedings, in accident which occurred on 02/06/2005 the Respondent-Claimant sustained injury because of which he was admitted to KEM hospital during the period 02/06/2005 to 17/08/2005. Thereafter, the Respondent-Claimant filed claim petition under section 166 of the Motor Vehicles Act claiming compensation of Rs.2 lacs. Considering the evidence on record, the Tribunal awarded sum of Rs.53,000/- with 7.5% p.a. interest.

4. In the present proceedings the claimant was in hospital for more than 2 months. Considering these facts, I am of the opinion that the Respondent-Claimant is entitled to withdraw 60% of the awarded amount without furnishing any security, subject to outcome of the First Appeal.

5. Considering the submissions made by the learned counsel for the Applicant, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 20/06/2013 passed by the MACT, Mumbai in MACP No.2461/2005 is stayed subject to the Applicant depositing the entire awarded amount including interest 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-Claimant is entitled to execute the award as per law.

c. If amount is deposited within stipulated time as stated hereinabove the Respondent-Claimant is entitled to withdraw 60% of total amount without furnishing any security, subject to out come of the First Appeal.

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. Since this order is being passed without issuing any notice to the Respondent, 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.

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

g. Civil Application stands disposed off accordingly.

JUDGE