

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

CIVIL APPLICATION NO.1281/2015
IN
FIRST APPEAL (ST) NO. 23415/2014

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. Shalini Shankar for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 15, 2016

P.C.:

1. Heard. This Application is made by Insurance Co. for stay of the operation and implementation of the impugned award dated 27/03/2014 passed by the MACT Sindhudurg in MACP No.59/2010 by which the Tribunal held that the Respondent-Claimant is entitled to Rs.3,86,000/- with 8% p.a. interest by way of compensation.

2. The learned counsel for the Applicant Insurance Co. makes a statement that he received instructions from the Insurance Co. that they are ready and willing to deposit the entire awarded amount in the Tribunal within 6 weeks from today. Statement is accepted. He submits that the Applicant has good chance of success in the matter.

If stay is not granted irreparable loss and injury will be caused to the Applicant. He submits that if entire amount is withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings. He 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 till hearing and final disposal of the appeal.

3. It is to be noted that in the present proceedings in an accident which occurred on 17/05/2009 at 4.45 pm. at Khokaran mangeli road, the Respondent-Claimant lost her son Vinayak Thakar. On the day of accident he was working as a labourer and was earning Rs.5000/- pm. Hence, the Respondent-Claimant filed Application u/s. 166 of the Motor Vehicles Act, 1988 for compensation of Rs.4 lacs. The Tribunal, considering the evidence on record held that the claimant is entitled to sum of Rs.3,86,000/- with interest.

4. Considering the fact that the claimant is a mother of the deceased, she can withdraw 25% of the awarded amount without furnishing any security, subject to outcome of the First Appeal.

5. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 27/03/2014 passed by the MACT Sindhudurg in MACP No.59/2010 is stayed, till hearing and final disposal of the appeal on condition that the Applicant Insurance Company to deposit the entire awarded amount with interest, cost, if any, in the Tribunal within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondent-claimants are entitled to execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-claimant are entitled to withdraw 25% of the awarded amount, without furnishing any security subject to out come of the appeal.

d. The Tribunal is directed to invest the awarded amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year

and same shall be renewed from time to time till hearing and final disposal of the appeal.

e. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own merits

f. The statutory deposit, if any, made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

JUDGE