

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

CIVIL APPLICATION NO.3000/2014
IN
FIRST APPEAL (ST) NO. 1178/2014

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. A. V. Dehvilkar i/b. D. R. Mahadik for the Applicant

CORAM : K. K. TATED, J.
DATE : FEBRUARY 5, 2016

P.C.:

1. Heard. This Application is made by the Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 19/09/2013 passed by the MACT, Mumbai in MACP No.1529/2006 awarding sum of Rs.4,17,500/- with 7.5% p.a. interest to the Respondent-claimant.

2. The learned counsel for the Applicant submits that in the present proceedings, the Trial Court erred in coming to the conclusion that the Insurance Company is liable to pay compensation though the driver of the offending vehicle was not holding valid license.

3. It is to be noted that in the present

proceedings though the advocate for the Applicant raised objection about the holding of valid license by the driver of offending vehicle, when this court called upon him to show the findings to that effect by the trial court, he relied on a copy of FIR.

4. The learned counsel for the applicant submits that pending the hearing and final disposal of the first appeal, the operation and implementation of the impugned judgment and award dated 19/06/2013 be stayed. The learned counsel for the applicant submits that the applicant Insurance Company is ready and willing to deposit the entire awarded amount within 4 weeks from today. Statement is accepted.

5. It is to be noted that, in the present proceedings in an accident which occurred on 05/02/2006, the claimant NO.1 lost her husband. On that he was 39 years old and was working as labourer on vehicle No.MH-04-B-9581 which was owned by the opposite party Umanath Jogi. The deceased was earning Rs.4000/- pm salary. On the basis of these facts, the claimant filed application u/s. 166A of the Motor Vehicles Act, 1988 claiming compensation of Rs.5 lacs.

6. Considering the fact that the claimant No.1

is widow and she has to maintain her 3 minor children and father-in-law and as there is delay on the part of the Insurance Company to prefer the appeal, I am of the opinion that the claimant Mrs. P. H. Singh is entitled to withdraw 40% of the awarded amount without furnishing any security, subject to outcome of the appeal and claimant No.6 Dharam Singh Padam Singh Darji is entitled to 5% without furnishing any security, subject to outcome of the appeal.

7. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 19/09/2013 passed by the MACT, Mumbai in MACP No.1529/2006 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 4 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 Respondents 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 claimants are entitled to withdraw the awarded amount, as under, without furnishing any security, subject to outcome of the appeal.

i. Mrs. Pushpa Hari Singh Darji – 40%

ii. Dharam Singh Padam Singh Darji – 5%

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

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

f. The statutory deposit, if any, made by the Appellant the at time of filing the appeal, be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

JUDGE