

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

CIVIL APPLICATION NO.2/2016
IN
FIRST APPEAL NO. 2/2016

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. P. Kulkarni for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 12, 2016

P.C.:

1. Heard. This Application is made by the Insurance Co. for stay of the operation and implementation of the impugned award dated 27/08/2014 passed by the MACT, Pune in MACP No.860/2010 by which the Tribunal held that the Respondent-Claimant are entitled to sum of Rs.6,03,000/- with interest @ 7% p.a. from the date of Application till the date of payment.

2. The learned counsel for the Applicant submits that on the date of accident the deceased was not holding a valid license who was driving the vehicle. Hence, the Insurance Co. is not liable to pay compensation. He further submits that if entire amount is recovered by the Respondent-Claimant in execution proceedings, nothing will

survive in the present proceedings. 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 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 29/05/2010, husband of claimant No.1 Subhash Wadekar, who was earning Rs.4500/- pm by working as a watchman, expired. Hence, the claimant filed Application u/s. 166 of the Motor Vehicles Act, 1988. Considering the fact that the claimant No.1 has to maintain her two minor children, I am of the opinion that the claimant is entitled to withdraw some amount without furnishing any security, subject to outcome of the First Appeal.

4. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 27/08/2014 passed by the MACT, Pune in MACP No.860/2010

is stayed in favour of the Applicant Insurance Co., 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. Respondent-Claimants are free to execute the impugned award against other Respondents i.e. owner of the offending vehicle, as per law.

c. 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.

d. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-claimant Kalawati Subhash Wadekar is entitled to withdraw Rs.2 lacs with accrued interest, without furnishing any security subject to outcome of the appeal.

e. The Tribunal is directed to invest the remaining award 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.

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

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

h. Civil application stands disposed off accordingly.

JUDGE