

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

CIVIL APPLICATION NO.719/2016  
IN  
FIRST APPEAL (ST) NO. 4919/2016

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| 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. Poonam Mital for the Applicant

**CORAM : K. K. TATED, J.**  
**DATE : FEBRUARY 22, 2016**

**P.C.:**

1. Mentioned. Not on board. At the request of learned counsel for the applicant, the matter is taken on board for urgent orders.

2. This application is made by the Insurance Company for stay of the operation and implementation of the impugned award dated 29/09/2015 passed by the Commissioner for Workmen's Compensation and Judge, III Labour Court, Thane in application (WCA) No.546/C-156-2011 holding that the respondent-claimant is entitled to compensation of Rs. 9,78,480/-.

3. The learned counsel for the applicant

submits that though the owner of the offending vehicle was duly served none appeared for them before the Tribunal. Moreover, respondent-claimant failed to place on record cogent evidence to show his monthly income. She submits that if entire awarded amount is recovered by the claimant, nothing will survive in the matter. She submits that the applicant has good chance of success in the matter. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award till hearing and final disposal of the appeal.

4. The learned counsel for the Insurance Company makes a statement that she received instructions from the Insurance Company that they are ready and willing to deposit the entire awarded amount in the Tribunal within 4 weeks from today. Statement is accepted.

5. In the present proceedings, in an accident which occurred on 17/09/2011, the respondent-claimant sustained injuries. He was working as a driver and because of the said accident, he sustained permanent disability to the extent of 48% and also there is delay on the part of the

Insurance Company in filing the appeal. Considering these facts, I am of the opinion that the respondent-claimant is entitled to withdraw some amount without furnishing any security, subject to outcome of the appeal.

6. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award 29/09/2015 passed by the Commissioner for Workmen's Compensation and Judge, III Labour Court, Thane in application (WCA) No.546/C-156-2011 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 claimant – Vinod Hridya Narayan @ Hridaynath yadav is entitled to withdraw 50% of the awarded amount, without furnishing any security, subject to outcome of the 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 and same shall be renewed from time to time till hearing and final disposal of the appeal.

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

f. It is made clear that the respondent-claimant can execute the award against Ms.Nita Cruz Preira, owner of the offending vehicle, in accordance with law.

g. Civil application stands disposed off accordingly.

**JUDGE**