

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

**CIVIL APPLICATION NO. 354 OF 2016
IN
FIRST APPEAL NO. 145 OF 2016**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Ms. Sucheta Ghaisas i/b D.S. Joshi for the Applicant.
Ms. Varsha Chavan for the respondent nos. 1 & 2.

**CORAM : K. K. TATED, J.
DATED : 11/02/2016**

PC.:

- . Heard learned Counsel for the parties.
- 2 This application is preferred by Insurance Company for stay of operation and implementation of impugned Judgment and Award dated 29.10.2014 passed by the Motor Accident Claims Tribunal, Mumbai in Claim Application No. 3333 of 2007 awarding sum of Rs.30,20,000/- with 7.5% interest per annum by way of compensation.
- 3 The learned Counsel for the insurance company submits that she received instructions from the insurance company that they are ready and willing to deposit entire awarded amount including interest in Tribunal within four weeks from today. The statement is accepted.

4 The learned Counsel for the applicant submits that pending the hearing and final disposal of First Appeal, this Hon'ble court be pleased to stay the operation and implementation of impugned Award passed by the Tribunal. She submits that Tribunal has awarded compensation on higher side. She submits that on the date of accident the deceased was only 20 years old. She further submits that if stay is not granted, irreparable loss and injury will be caused to the them.

5 On the other hand, the learned Counsel for the Respondent vehemently opposed the present Civil Application. She submits that though the Insurance Company raised objection before the Tribunal that driver of the offending vehicle was not holding valid licence, but they failed to examine the witness. Hence, there is no substance in the Civil Application and same is required to be dismissed with costs.

6 I heard both the sides at length. In the present proceeding, the deceased was 20 years old and at that time he was working as System Network Administrator in Happy Associates, Jeevan Parekh Plaza, Opp. Nanavati College, Vallabhai Road, Vile Parle West. His salary was Rs.12,500/- per month.

7 Considering the age of the deceased and pay scale, I am of the opinion that Applicant has made

out case for allowing Civil Application.

8 Hence, following order is passed:

a) Operation and implementation of the impugned Judgment and Award dated 29.10.2014 passed by the Motor Accident Claims Tribunal, Mumbai in Claim Application No. 3333 of 2007 is stayed till the hearing and final disposal of the First Appeal on condition that Applicant to deposit the entire awarded amount including interest and cost in the Tribunal within four weeks from today, failing which civil application shall stand dismissed without referring back to the court.

b) If amount is not deposited within stipulated time as stated herein above, the respondents-claimants are free to execute the Award according to law.

c) If amount is deposited within stipulated time as stated herein above, liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the amount and that application will be decided on its own merits.

d) In the meanwhile, the Tribunal is directed to invest the entire amount of award in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)