

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

**CIVIL APPLICATION NO. 789 OF 2016
IN
FIRST APPEAL (ST.) NO. 5720 OF 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. Sanjeev Krishnan i/b Harshada Rane for the applicant.

**CORAM : K. K. TATED, J.
DATED : 26/02/2016**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 Heard learned Counsel for the applicant.

3 The learned Counsel for the applicant submits that respondent-claimant filed execution application for recovery of entire awarded amount. He submits that if the entire amount is recovered by the respondent-claimant in execution application then nothing will survives in the present proceeding. Hence, there is an urgency.

4 This civil application is preferred by Insurance Company for stay of Judgment and Award passed by the Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 364 of 2010.

5 The learned Counsel for the insurance

company submits that he received instructions from the insurance company that they are ready and willing to deposit entire awarded amount in Tribunal within four weeks from today. The statement is accepted.

6 The learned Counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned Judgment and Award passed by the Tribunal till the hearing and final disposal of the First Appeal.

7 Considering the submissions made by learned counsel for the applicant, averments made in Civil Application and after perusing the impugned Judgment and Award passed by the Trial Court, I am satisfied that applicant has made out the case for interim protection and I am of the opinion that respondents-claimants can withdraw 20% amount without furnishing any security, but subject to the outcome of the First Appeal.

8 Hence, following order is passed:

a) Operation and implementation of the impugned Judgment and Award dated 14.05.2015 passed by the Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 364 of 2010 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 respondent-claimant is free to execute the Award according to law.

c) If amount is deposited within stipulated time as stated herein above, the claimant can withdraw 20% amount without furnishing any security, but subject to the outcome of the First Appeal.

d) The Tribunal is directed to invest the remaining amount 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) Liberty granted to the respondent claimant to take out appropriate application, if he so desire, for withdrawal of the remaining amount and that application shall be decided on its own merits.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)