

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

CIVIL APPLICATION NO.4375/2014
IN
FIRST APPEAL NO. 1516/2014

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. S. S. Jinsiwale 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 award dated 31/12/2013 passed by the MACT, Pune in MACP No.74/2008 awarding sum of Rs.1,54,500/- with 8% p.a. from the date of filing the claim application till its realisation.

2. The learned counsel for the applicant submits that the Tribunal failed to consider the fact that the accident occurred due to the negligence of the crane driver and therefore the owner of crane and driver of the vehicle is liable to pay the compensation. Hence, the Tribunal erred in coming to conclusion that the Insurance Company is liable to pay compensation.

3. The learned counsel for the applicant submits that if entire awarded amount is recovered by the claimant, nothing will survive in the matter. He submits that the applicant has good chance of success in the matter. He 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 he 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. It is to be noted that, in the present proceedings in an accident which occurred on 19/05/2008, the claimant lost their daughter Archana, who was of 12 years old. At that time, she was taking education in 7th standard. Considering these facts Tribunal awarded sum of Rs.1,54,500/- only. I am of the opinion that the claimants are entitled to withdraw 50% of the awarded 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 dated 31/12/2013 passed by the MACT, Pune in MACP No.74/2008 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, both the respondents claimants are entitled to withdraw 25% each 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 claimants to make an appropriate Application for withdrawal of further awarded amount, if they so desire, which will be decided on its own merits

f. Statutory deposit, if any made by the applicant Insurance Company at the time of filing the appeal, be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

JUDGE