

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.3236/2014
IN
FIRST APPEAL (ST) NO. 21602/2014

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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Ms. Yogita Deshmukh i/b. M. M. Sathaye for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 15, 2016

P.C.:

1. Heard. This Application is made by Insurance Co. for stay of the operation and implementation of the impugned award dated 06/01/2014 passed by the MACT, Solapur in MACP No.284/2008.

2. Office note shows that pursuant to the order dated 18/09/2014 passed by this court, the Applicant Insurance Co. deposited sum of Rs.3,12,362/- in the Trial Court on 07/10/2014.

3. The learned counsel for the Applicant submits that pending hearing and final disposal of the appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award. She submits that in an accident which occurred on 31/07/2008, a minor girl viz. Mansi,

aged 4 years died. She submits that the Tribunal awarded compensation on higher side. She 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. She submits that if entire amount is withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings. She 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.

4. It is to be noted that in the present proceedings in an accident which occurred on 31/07/2008, a minor girl viz. Mansi, aged 4 years died. The petition filed by the parents of the deceased u/s. 166 of the Motor Vehicles Act, 1988 is for Rs.4 lacs, whereas, the Tribunal awarded sum of Rs.2,35,000/- with 7% p.a. interest.

5. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. At the same time,

the Respondent-Claimant who filed claim petition for recovery of sum of Rs.4 lacs, are entitled to withdraw 50% of awarded amount without furnishing any security, subject to outcome of the First Appeal.

6. Hence, the following order:

a. Civil Application is allowed in terms of prayer clause (a) which reads thus:

(a) That pending hearing and final disposal of the present first appeal, the effect, operation, implementation and execution of the impugned judgment and award dated 06/01/2014 passed by the learned Member, MACT, Solapur in MACP No.284/2008 and disbursal of amount thereunder, be kindly stayed.

b. Respondent No.1 Damayanti Suresh Bhanushali and No.2 Suresh Shambhuram Bhanushali are entitled to withdraw 25% each of awarded amount without furnishing any security, subject to outcome of the First Appeal.

c. 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.

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

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

f. Civil application stands disposed off accordingly.

JUDGE