

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

FIRST APPEAL (ST.) NO. 23168 OF 2012

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 Mittal for the appellant.

Mr. T. J. Mendon for the respondents.

CORAM : K. K. TATED, J.

DATED : 08/01/2016

PC.:

. Not on board. At the request of Advocate for the appellant, matter is taken on board for admission.

2 Heard learned Counsel for the parties.

3 This appeal is preferred by Insurance Company challenging the Judgment and Award dated 07.01.2012 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 2791 of 2005 holding that Insurance Company liable to pay compensation of Rs.6,85,000/- with interest 7.5% per annum.

4 The learned Counsel for the appellant submits that Trial Court failed to consider the contributory negligence at the time of awarding the compensation. She submits that as per the certified copy of FIR Exh.17 Bandra Police Station has registered the Crime No. 403 of 2005 against the

drivers of the both motorcycles for the offence punishable under Sections 297, 398 of I.P.C. and under Section 185 of M.V. Act. She submits that FIR discloses that at the relevant time of the accident, the drivers of both the motorcycles were in drunken condition.

5 In view of these facts, the learned Counsel for the applicant submit that the Insurance Company is not liable to pay any compensation.

6 Considering the submissions made by learned counsel for the Insurance Company and after perusing the impugned Judgment passed by the Trial Court, I am satisfied that appellant has made out the case for admission of the First Appeal.

A) **ADMIT.**

B) Appellant to remove all office objections in First Appeal within eight weeks from today, failing which First Appeal shall stand dismissed without referring back to the court .

C) Appellant is directed to file private paper book within one year from today, failing which, First Appeal shall stand dismissed without referring back to the court.

D) Printing and filing of Roznama is dispensed with.

E) The learned Counsel for respondent nos. 1 to 4 waives service.

(K.K.TATED, J.)