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

CIVIL APPLICATION NO.3730/2014
IN
FIRST APPEAL (ST) NO. 26229/2014

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

Ms. Poonam Mittal for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 12, 2016

P.C.:

1. Heard. None for the Respondents though duly served.

2. This Application is made by Insurance Company for stay of the operation and implementation of the impugned award dated 18/10/2013 passed by MACT, Thane in MACP No.139/2005 by which the Tribunal awarded sum of Rs.1,34,800/- with interest @ 7% p.a. by way of compensation to the Respondent original claimant.

3. In the present proceedings, in an accident which occurred on 18/12/2004, the Respondent-claimant suffered serious injuries. He was an indoor patient in civil hospital from 19/12/2004 to 22/12/2004. Hence,the Respondent-claimant filed

petition u/s. 166 of the Motor Vehicles Act, 1988 for compensation of Rs.1,50,000/-. Considering the evidence on record, the Tribunal held that the Respondent-claimant is entitled to Rs.1,34,800/- with interest @ 7% p.a.

4. The learned counsel for the Insurance Company submits that the Tribunal erred in coming to the conclusion that the Insurance Company is liable to pay said compensation. He submits that the owner of the offending vehicle issued a cheque being No.634094 for Rs.561/- towards the payment of insurance premium. The said cheque was dishonoured by the drawer bank. Hence, the Insurance Company has cancelled the insurance policy.

5. The learned counsel for the Insurance Company submits that these facts are not considered by the Tribunal at the time of passing the impugned award and held that the Insurance Company is also liable to pay compensation. He further submits that as per order passed by this court on 07/11/2014, they already deposited entire awarded amount in the Tribunal with interest. Statement is accepted.

6. The learned counsel for the Insurance

Company submits that if entire award amount is withdrawn by the Respondent-Claimant nothing will survive in the present proceedings. He submits that the Applicant has good chance of success. He submits that if stay is not granted, irreparable loss, harm and injury will be caused to the Applicant. On the basis of this submission, 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 the impugned award till hearing and final disposal of the appeal.

7. Considering the submissions made by the learned counsel for the Applicant and as the entire awarded amount is deposited by the Appellant in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

8. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 18/10/2013 passed by MACT, Thane in MACP No.139/2005 is stayed, till hearing and final disposal of the appeal.

b. The Tribunal is directed to invest the awarded 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.

c. 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

d. The statutory deposit, if any, made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal, along with accrued interest.

e. Civil application stands disposed off accordingly.

JUDGE