

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

**CIVIL APPLICATION NO.2006 OF 2015
IN
FIRST APPEAL (ST) NO.28769 OF 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.Sudhakar G. Thorat for the applicant

Mr.D.R.Mahadik i/b Mr.S.R.Singh and Co. for the respondent no.3

CORAM : K.K.TATED, J.
DATED : 11/01/2016

PC:

- 1 Heard the learned counsel for the applicant.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 17.4.2014 passed by MACT, Mumbai below Exhibit-2 in Application No.311 of 2012 by which the Tribunal directed Insurance Company to deposit interim compensation of Rs.25,000/- in the Tribunal within six weeks.
- 3 The learned counsel for the applicant submits that in the Trial Court they filed their reply to the application under section 140 of the Motor

Vehicles Act and raised preliminary objection about the Insurance Policy which was “Private Car Liability Only Policy”.

4 He submits that reply filed by Insurance Company is not considered by the Tribunal at the time of passing the impugned order dated 17.4.2014. The learned counsel for the Insurance Company submits that he received instruction from the Insurance Company that they are ready and willing to deposit entire amount with interest in the Tribunal within four weeks from today. Statement is accepted.

5 Considering the order passed by the Tribunal, I am satisfied that the respondents claimants are entitled to withdraw 40% amount without furnishing any security but subject to outcome of the First Appeal.

6 Considering the submissions made by the learned counsel for the Applicant and the reply filed before the Tribunal in Application under section 140 of the Motor Vehicles Act, I am satisfied that the Applicant has made out a case for allowing the present Civil Application but at the same time, respondents claimants are entitled to withdraw 40% amount without furnishing any security. Hence, the following order:

a) The operation and implementation of the

impugned award dated 17.4.2014 passed by MACT, Mumbai below Exhibit-2 in Application No.311 of 2012 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 four 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 Respondent-claimants are entitled to execute the award as per law.

c) If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-claimant are entitled to withdraw 40% amount, without furnishing any security subject to out come of the appeal.

d) 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.

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

f) The statutory deposit made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal.

g) Civil application stands disposed off accordingly.

(K.K.TATED, J.)