

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

CIVIL APPLICATION NO.3888/2014
IN
FIRST APPEAL (ST) NO. 29029/2014

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. H. G. Misar for the Applicant
Mr. V. S. Tadake i/b. D. D. Shinde for the Respondent No.7.

CORAM : K. K. TATED, J.
DATE : FEBRUARY 10, 2016

RC.:

1. Heard the learned counsel for the Applicant and Respondent No.7.
2. This Application is made by the Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 24/04/2014 passed by the MACT, Pune in MACP No.314/2002 holding that the Respondent-claimants are entitled to sum of Rs. 6 lacs with interest 7% p.a. by way of compensation.
3. The learned counsel for the Applicant submits that the offending vehicle was a goods vehicle and it was used to carry 32-35 passengers.

He further submits that the Tribunal failed to consider the fact that the driver of offending vehicle violated the terms and conditions of the insurance policy. Hence, the Insurance Company is not liable to pay compensation. He further submits that the Insurance Company has already deposited the entire awarded amount in the Tribunal. He submits that the Applicant has good chance of success. He submits that if entire awarded amount is withdrawn/recovered nothing will survive in the present proceedings. Hence, 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. Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and the observations made by the Trial Court in paragraph 11 of the impugned award, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

5. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 24/04/2014 passed by the MACT, Pune in MACP No.314/2002

is stayed, till hearing and final disposal of the appeal.

b. The Tribunal is directed to invest the entire awarded 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 make an appropriate Application for withdrawal of awarded 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.

e. Civil application stands disposed off accordingly.

JUDGE