

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.2904/2015
IN
FIRST APPEAL (ST) NO. 30172/2014

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. Nikhil Mehta i/b. KMC Legal Venture for the Applicant

CORAM : K. K. TATED, J.
DATE : FEBRUARY 2, 2016

P.C.:

1. Heard. This application is made by the Insurance Company for stay of the operation and implementation of the impugned award dated 02/05/2014 passed by the MACT, Solapur in MACP No.235/2011 holding that the respondent-claimants are entitled to compensation of Rs.4,79,000/- with 7.5% p.a. interest.

2. The learned counsel for the applicant submits that in the present proceedings they specifically raised objection before the trial court about non involvement of motor vehicle being No.MH-13/AN-2498 which was insured with them. He submits that though the accident occurred on 15/08/2011, the FIR was registered by the Appellant on 16/10/2011. He further submits that only on the basis of the statement of DW2 the trial

court held that the vehicle i.e. Tamtam was involved in the present proceeding.

3. The learned counsel for the applicant submits that the applicant has good chance of success in the matter. He further submits that if amount is recovered by the claimant, nothing will survive in the matter. The learned counsel for the Insurance Company makes a statement that he received instructions from the Insurance Company that they are ready and willing to deposit the entire awarded amount in the Tribunal within 4 weeks from today. Statement is accepted.

4. Considering the submissions made by the learned counsel for the applicant and the averments made in the civil application, I am of the opinion that the applicant has made out a case for allowing the civil application.

5. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 02/05/2014 passed by the MACT, Solapur in MACP No.235/2011 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 4 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 Respondents are entitled to execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Tribunal is directed to invest the same 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 Respondent claimants to make an appropriate Application for withdrawal of awarded amount, if they so desire, which will be decided on its own merits

e. Statutory deposit, if any made by the applicant Insurance Company at the time of filing the appeal, be transferred to the Tribunal.

f. Civil application stands disposed off accordingly.

JUDGE