

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

CIVIL APPLICATION NO.4307/2015

IN

FIRST APPEAL (ST) NO. 34243/2014

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. D. S. Joshi for the Applicant

CORAM : K. K. TATED, J.

DATE : JANUARY 7, 2016

P.C.:

1. Heard. This Application is made by Insurance Company for stay of the operation and implementation of the impugned award dated 05/04/2014 passed by MACT, Mumbai in Application No.1315/2004 by which the Tribunal awarded sum of Rs.9,41,000/- with 7% p.a. interest by way of compensation to the Respondent-claimant.

2. The learned counsel for the Applicant submits that in an accident which occurred on 16/04/2004, the claimant Nos.1 and 2 lost their daughter who was working and earning Rs.6000/- pm. The learned counsel for the Applicant submits that both the original claimants were not

dependent on the deceased. Hence, they are not entitled to any compensation. These facts were not considered by the Tribunal at the time of passing the impugned award. He further submits that though the claimants specifically stated in the claim petition that the deceased was earning Rs.6000/- p.m. salary, a certificate issued by the employer shows that the deceased was getting Rs.3000/- pm. salary. He submits that in any case, the compensation awarded by the Tribunal is on higher side. He submits that the Applicant has good chance of success. He submits that if entire awarded amount is recovered by the claimants in the Execution Application 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.

3. The learned counsel for the Applicant submits 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. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 05/04/2014 passed by MACT, Mumbai in Application No.1315/2004 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 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.

c. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondent-claimant is entitled to execute the award as per law.

d. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the 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.

e. The statutory deposit, if any, made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal.

f. Civil application stands disposed off accordingly.

JUDGE