

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

CIVIL APPLICATION NO.1264 OF 2019

IN

FIRST APPEAL (ST.) NO.2911 OF 2019

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.S.S.Dwivedi for the applicant

CORAM : K. K. TATED, J

DATE : APRIL 1, 2019

P.C.:

. Heard.

2 Not on board. At the request of advocate for the applicant matter is taken on production board for urgent orders.

3 By this Civil Application, Applicant Insurance Company is seeking stay of operation and implementation of the impugned judgment and award dated 2.5.2018 passed by MACT, Khed in MACP No.5 of 2015 holding that Respondent original Claimant are entitled sum of Rs.1,64,736/- by way of compensation with 6% interest.

4 The learned counsel for the Applicant

submits that Respondent original Claimant filed Execution Application. He submits that if entire amount is recovered by the Respondent Claimant in execution application then nothing will survive in the present proceeding.

5 The learned counsel for the applicant submits he received instruction from his client that they are ready and willing to deposit entire awarded amount in the Tribunal on or before 30.4.2019. Statement is accepted.

6 Considering the submissions made by the learned counsel for the Applicant, the averments made in Civil Application and as Applicant Insurance Company is ready and willing to deposit entire awarded amount in the Tribunal on or before 30.04.2019, I am satisfied that the Applicant has made out a case for allowing Civil Application but at the same time Respondent Claimants are entitled to withdraw 25% amount without furnishing any security. Hence, following order is passed :

A) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit entire awarded amount with interest in the Tribunal on or before 30.04.2019, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (a) reads thus:

"a) That pending the hearing and final disposal of the present Appeal, the execution, operation of the impugned judgment and award dated 2.5.2018 passed by the Learned Motor Accident Claims Tribunal, Khed in M.A.C.P. no.5 of 2015 be stayed in the interest of justice."

B. If amount is deposited within stipulated time as stated hereinabove, Respondents Claimants are permitted to withdraw 25% amount without furnishing security but subject to outcome of the First Appeal.

C. Tribunal is directed to invest awarded amount in fixed deposit of any nationalized bank initially for a period of one year and same to be continued till further orders.

D. Liberty granted to the Respondents original Claimants if they so desire to prefer appropriate application for withdrawal of remaining amount and that be decided on its own merits.

E. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)