

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1170 OF 2019
IN
FIRST APPEAL (ST) NO.3438 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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Mrs. Shalini Shankar for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 23, 2019**

P.C.:

1. Not on board. At the request of Advocate for the Applicant, matter is taken on board for urgent orders.

2. Heard.

3. By this Civil Application, Applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 7.9.2018 passed by MACT, Pune in MACP No.1032 of 2013 holding that Respondent original Claimants are entitled a sum of Rs.3,85,000/- by way of compensation along with interest @ 7% p.a.

4. The learned counsel for the Applicant

submits that in the present proceeding, Respondent original Claimant filed Darkhast Application No.208 of 2018 before MACT at Pune for recovery of entire amount. Hence, there is urgency in the matter. She further submits that Applicants are ready and willing to deposit entire awarded amount on or before 31.5.2019. Statement is accepted.

5 In the present proceeding, in an accident which occurred on 8.1.2010 Respondent original Claimant sustained injury. Because of that, Respondent Claimant filed Claim Petition under section 166 of the Motor Vehicles Act claiming compensation of Rs.12 lacs.

6 Considering the fact that there is delay on the part of Insurance Company to file the present First Appeal and Respondent original Claimant filed Execution Application No.208 of 2018, I am satisfied that Respondent original Claimant to be permitted to withdraw some 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 along with interest in the Tribunal on or before 31.5.2019, failing which Civil Application shall stand dismissed without referring back to the court.

Prayer clause (a) reads thus:

"(a) Pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be pleased to stay the effect, implementation and or execution of the impugned Judgment and order dated 07.09.2018 passed by the Hon'ble Court of Member, in Motor Accident Claim Petition No.1032 of 2013."

B. If amount is deposited within stipulated time as stated hereinabove, Claimant Soumyajit Pradosh Kar is entitled to withdraw 30% amount without furnishing any security but subject to outcome of the First Appeal.

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

D. Liberty granted to the Claimant to make Application for withdrawal of further amount if he so desires, and that Application be decided on its own merits.

E. Civil application stands disposed of accordingly.

(K.K.TATED, J.)