

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

CIVIL APPLICATION NO.1985/2019
IN
FIRST APPEAL NO.670/2019

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.D.S.Joshi, advocate for appellant.
None for respondents.

CORAM : K.K.TATED, J.
DATED : JUNE 11, 2019

P.C.

Not on board. On the basis of preceipe filed by learned advocate for applicant, the matter is shown on production board for urgent orders.

2. Heard learned counsel for applicant.

3 Learned counsel for applicant submits that the learned advocate for respondent is duly served by an e-mail for today's production.

4. Learned counsel for applicant submits that in the present proceeding, the respondents filed execution application in

which attachment warrants are issued. Hence, there is urgency.

5. Learned counsel for applicant submits that, by this civil application they are seeking stay of operation and implementation of judgment and award dated 09.08.2018, passed by Motor Accident Claims Tribunal Islampur in M.A.C.P No.41/2013, holding that respondents/claimants are entitled sum of Rs.3,77,956/- by way of compensation with 6% interest. He submits that the trial court failed to appreciate the fact that insured vehicle was not involved in the accident. Therefore, they are not liable to pay any compensation. He submits that they have good chance of success.

6. The learned counsel for applicant submits that pending hearing and final disposal of present first appeal, operation and implementation of judgment and award passed by the tribunal is stayed. He submits that if entire amount is recovered by respondent in execution application, then nothing will survive in the present proceeding. He submits that he received

instructions from his clients that they are ready and willing to deposit entire amount with interest within 4 weeks from today.

7. Considering the submissions made by the learned counsel for applicant and impugned judgment and award, I am satisfied that applicant has made out a case for allowing this application. At the same time, respondents/claimants can be permitted to withdraw some amount but subject to outcome of first appeal.

8. Hence, the following order.

a) Operation and implementation of impugned judgment dated 09.08.2018 passed by Motor Accident Claims Tribunal, Islampur in M.A.C.P. No.41/2013 is stayed during the pendency of present first appeal on condition that, applicant/Insurance company to deposit the entire awarded amount in the Tribunal on or before 10.07.2019 failing which, the civil application shall stand dismissed without referring back to the court.

b) The respondents/claimants are entitled to withdraw 10% amount with interest each

without furnishing any security but subject to outcome of first appeal.

c) The Tribunal is directed to invest remaining amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

d) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for withdrawal of further amount and that application will be decided on its own merits.

e) Civil application stands disposed of.

(K.K.TATED, J.)