

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

**CIVIL APPLICATION NO.1214 OF 2019
IN
FIRST APPEAL (ST.)NO.5153 OF 2019**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Ms.Deepika Prabhala i/b M/s.Res Juris for the applicant

**CORAM : K. K. TATED, J
DATE : MARCH 27, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 26.09.2018 passed by MACT Pune in MACP No.147 of 2010 holding that Respondent Claimant are entitled sum of Rs.1,22,18,000/- with interest @ 8% p.a. from the date of application till realization.

3 The learned counsel for the applicant

submits that respondent claimant filed execution application. She submits that if entire amount is recovered by the respondent claimant in execution application then nothing will survive in the present proceeding.

4 The learned counsel for the applicant submits that she received instruction from her client that they are ready and willing to deposit entire awarded amount in the Tribunal within four weeks from today. Statement is accepted.

5 The learned counsel for the Applicant submits that in the interest of iustice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award till the hearing and final disposal of the First Appeal. She submits that they have good chance of success in the present First Appeal.

6 It is to be noted that in the present proceeding, in an accident respondent original claimant sustained following injuries:

- [i] Left side Diaphragmatic Hernia
- [ii] Right side Pneumothorax
- [iii] Splenic Lacertions
- [iv] Multiple Pelvic Rami fracture
- [v] Paraphymosis

7 Not only that respondent claimant was admitted in ICU at Ruby Hall Clinic from 11.1.2009 till 30.6.2009.

8 Considering these facts, the injury sustained by the claimant and as there is a delay on the part of appellant to file appeal, I am of the opinion that claimant is entitled to withdraw some amount without furnishing any security. Hence, following order is passed:

- a. Operation and implementation of the impugned judgment and award dated 26/09/2018 passed in Motor Accident Claim Petition No.147 of 2010 by the Learned Member, Motor Accident Claim Tribunal, Pune is stayed till further orders 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.
- b. If amount is deposited within stipulated time as stated hereinabove, Claimants are permitted to withdraw sum of Rs.25 lacs with accrued interest without furnishing security.
- c. Tribunal is directed to invest remaining

amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.

- d. Liberty granted to the Respondent original Claimant 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.)