

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

CIVIL APPLICATION NO.2353 OF 2017

IN

FIRST APPEAL (ST.) NO.7206 OF 2017

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.M.Dange for the applicant

CORAM : K. K. TATED, J

DATE : JULY 22, 2019

P.C.:

. Heard.

2 Though Respondents are duly served, no one appeared on behalf of them when the matter was called out.

3 By this Civil Application, Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 24.9.2016 passed by MACT, Niphad in MACP No.16 of 2013 holding that Respondent original Claimant is entitled sum of Rs.11,33,072/- by way of compensation with interest @ 7% p.a.

4 The learned counsel for the Applicant

submits that they are challenging the judgment and award dated on the ground of quantum and contributory negligence.

5 The learned counsel for the Applicant submits that they already deposited entire awarded amount with interest in the Tribunal. Statement is accepted. He submits that pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award. He submits that if entire amount is withdrawn by the Respondent Claimant then nothing will survive in the First Appeal.

6 It is to be noted that in the present proceedings, in an accident which occurred on 10.1.2013, respondent claimant's son aged 10 years died on the spot. Trial Court considering the notional income @ Rs.4,000/- per month and multiplier of 18 years, held that Respondent is entitled compensation. Respondent original Claimant is mother of deceased. Considering the fact that though the accident occurred in 2013 till today mother has not got any compensation. Therefore, I am of the opinion that Claimant may be permitted to withdraw 40% amount without furnishing any security subject to outcome of the First Appeal.

A Civil Application is allowed in terms of

prayer clause (a) which reads thus:

"(a) Pending the hearing and final disposal of the above appeal, the judgment and order dated 24/9/2016 passed by Member, Motor Accident Claims Tribunal, Niphad, Dist. Nasik in MACP No.16//2013 be stayed."

B Respondent original Claimant is permitted to withdraw 40% amount with accrued interest without furnishing any security subject to outcome of the First Appeal.

C The Tribunal is directed to invest the remaining award amount 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.

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

E Civil application stands disposed off accordingly.

(K.K.TATED, J.)