

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

**CIVIL APPLICATION NO.2984 OF 2018
IN
FIRST APPEAL NO.915 OF 2018**

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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Ms.Yogita Deshmukh for the appellant

**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 9.10.2017 passed by MACT Mumbai in MACP No.18 of 2007 holding that Respondent Claimant are entitled sum of Rs.15,25,000/- with interest @ 7.5% p.a. from the date of application till realization.

3 The learned counsel for the applicant submits 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.

4 The learned counsel for the Applicant submits that in the interest of Justice, 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 if entire amount is recovered by the respondent claimant, then nothing will survive in the present proceeding. She submits that they have good chance of success in the present First Appeal.

5 Considering the submissions made by the learned counsel for the Applicant and the averments made in Civil Application and as Applicant Insurance Company is ready and willing to deposit entire awarded amount in the Tribunal within four weeks from today, 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 some amount without furnishing any security.

6 Hence, following order is passed :

A) Civil Application is allowed in terms of prayer clause (a) which reads thus:

- a. That pending the hearing and final disposal of the First Appeal, the effect, operation and execution of the impugned judgment and award dated 09/10/2017 passed in Motor Accident Claim Petition No.18 of 2007 by the Learned Member, Motor Accident Claim Tribunal, Mumbai and disbursal of amount there under be kindly stayed.
- b. 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.
- c. If amount is deposited within stipulated time as stated hereinabove, Tribunal is directed to invest entire amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.
- d. Claimant no.1, Ashik Akbar Khan, Claimant No.2, Sakif Akbar Khan and Claimant No.3, Zeba Akbar Khan are permitted to withdraw sum of Rs.2 lacs each with accrued interest without furnishing

security at present.

- e. 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.
- f. Civil Application stands disposed of accordingly.

(K.K.TATED, J.)