

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

CIVIL APPLICATION NO.3222 OF 2017

IN

FIRST APPEAL (ST) NO.11618 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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Ms.Poonam Mittal for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 23, 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, Applicant Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 2.8.2016 passed by MACT, Pune in MACP No.1093 of 2011.

4 The learned counsel for the Applicant submits that they already deposited entire awarded amount in the Tribunal. Statement is

accepted.

5 The learned counsel for the Applicant submits that if entire amount is withdrawn by the Respondent Claimant then nothing will survive in the present proceeding. She submits that pending the hearing and final disposal of the present First Appeal, Respondent original Claimant be restrained from withdrawing the amount deposited by them.

6 In the present proceeding, in an accident which occurred on 7.10.2011, Respondent original Claimant sustained permanent disability. As per paragraph 12 of the impugned judgment and award Respondent original Claimant spend nearabout Rs.46,149/- on medical expenses, Rs.5,000 on conveyance and Rs.10,000 on special diet. Considering these facts, I am of the opinion that Respondent original Claimant can be permitted to withdraw 40% amount without furnishing any security subject to outcome of the First Appeal.

7 Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and as entire amount is deposited by them, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

Hence, following order is passed:

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

"a) Pending the hearing and final disposal of the first appeal; the execution of the impugned judgment & Award passed by Ld.MACT, at Pune in MACP No.1093 of 2011 dated 02.08.2016 directing appellant to pay compensation at Rs.1,11,500/- jointly and severally to the respondent No.1 with 8% interest from date of application till its realization be stayed on such terms and conditions as this Hon'ble Court may deem fit and proper."

B) Respondent original Claimant is entitled to withdraw 40% amount without furnishing any security but subject to outcome of the First Appeal.

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

D) Civil application stands disposed off accordingly.

(K.K.TATED, J.)