

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

**CIVIL APPLICATION NO.2769 OF 2019
IN
FIRST APPEAL (ST.) NO.12747 OF 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.Sarthak Diwan for the Applicant

**CORAM : K. K. TATED, J
DATE : AUGUST 22, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 6.12.2018 passed by MACT, Vaduj in MACP No.77 of 2010 holding that Respondents original Claimants are entitled sum of Rs.4,23,000/- by way of compensation with interest @ 6% p.a.

3 The learned counsel for the Applicant

submits that if entire amount is recovered by the Respondent by filing Execution Application, then nothing will survive In the present proceeding. He submits that they are challenging the impugned judgment and award on the basis of quantum as well as negligence on the part of Respondent original Claimant. He 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 First Appeal.

4 The learned counsel for the Applicant submits that he received instruction from his client that they are ready and willing to deposit entire awarded amount with interest in the Tribunal within four weeks.

5 It is to be noted that in the present proceeding in an accident which occurred on 21.4.2008, Respondent original Claimant sustained 25% permanent disability. To that effect, Respondent original Claimant examined P.W.No.3 Dr. Magar who issued medical certificate.

6 Considering the fact that Respondent original Claimant sustained 25% disability, I am of the opinion, that he may be permitted to withdraw some amount without furnishing

any security subject to outcome of the First Appeal. Hence, following order is passed :

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount with interest in the Tribunal on or before 27.9.2019. Prayer clause (b) which reads thus:

“(b) That pending hearing and final disposal of the present First Appeal, the effect, operation, implementation and execution of the impugned judgment and award dated 06.12.2018 passed by the Motor Accidents Claim Tribunal at Vaduj in M.A.C.P. No.77 of 2010 and disbursal of amount there under, be kindly stayed.”

B. If amount is deposited within stipulated time as stated hereinabove, Respondent original Claimant is permitted to withdraw 25% amount with accrued interest without furnishing any security but subject to outcome of the First Appeal.

C. Tribunal is directed to invest the 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 Applicants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

E. Civil Application stands disposed of accordingly.

F. No order as to costs.

(K.K.TATED, J.)