

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

**CIVIL APPLICATION NO.2717 OF 2019
IN
FIRST APPEAL NO.1009 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.V.V.Parshurami for the applicant

Mr.Raghujit Singh for the respondent no.1

**CORAM : K. K. TATED, J
DATE : AUGUST 7, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 15.11.2018 passed by MACT, Thane in MACP No.339 of 2017 holding that Respondent original Claimant is

entitled sum of Rs.7,75,714/- by way of compensation with interest @ 7% p.a.

3 The learned counsel for the Applicant submits that, Insurance Company already deposited entire decretal amount along with interest except Rs.15,000/- in the Tribunal. He submits that at the time of filing First Appeal before this court, they already deposited sum of Rs.25,000/-. He submits that if said amount is transferred to MACT, then, there is no question of depositing any further amount by the Applicant. He further submits that during the pendency of the present First Appeal, Respondent may be restrained from withdrawing the said amount. He submits that they have good chance of success in the present proceeding.

4 On the basis of these submissions, the learned counsel for the Applicant submits that pending the hearing and final disposal of the First Appeal, operation and implementation of the impugned judgment and award dated 15.11.2018 be stayed.

5 On the other hand, the learned counsel for the Respondent vehemently opposed the present Civil Application. He submits that there is no question of granting any stay. He submits that Trial Court passed money decree.

He further submits that in an accident which occurred on 10.2.2017, Respondent original Claimant sustained several injuries. At the time of accident, he was 23 years old. He submits that, because of accident, Respondent original Claimant sustained disability to the extent of 60%. He further submits that to prove the disability upto 60% they placed on record Doctor's certificate at Exhibit 40. He further submits that in the interest of Justice, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Applicant in the Tribunal. He further submits that they already preferred Civil Application No.2717 of 2019 for withdrawal of the amount deposited by the Insurance Company.

6 It is to be noted that in the present proceeding, Applicant already deposited entire awarded amount in the Tribunal except Rs.15,000/-.

7 Considering the submissions made by the learned counsel for the Applicant and the averments made in Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

a. Registry is directed to transfer the

amount of Rs.25,000/- along with accrued interest, if any, deposited by the Applicant at the time of filing First Appeal to the MACT, Thane in the account bearing MACP No.339 of 2017 immediately.

b. Applicant is directed to deposit remaining decretal amount if any, in the Trial Court on or before 21.9.2019.

c. Civil Application No.2718 of 2019 preferred by Respondent Claimant be decided on its own merits.

d. Civil Application stands disposed of accordingly.

e. No order as to costs.

(K.K.TATED, J.)