

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

CIVIL APPLICATION NO.2053/2019
IN
FIRST APPEAL(STAMP)NO.14637/2019

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.D.S. Joshi, advocate for applicant.
None for respondents.

CORAM : K.K.TATED, J.
DATED : JUNE 11, 2019

P.C.

Not on board. On the basis of preceipe filed by learned advocate for applicant, the matter is shown on production board for urgent orders.

2. Heard learned counsel for applicant.

3. By this civil application, the applicant/Insurance Company is seeking stay of operation and implementation of impugned judgment and award dated 21.04.2018 passed by Motor Accident Claims Tribunal, Satara, in M.A.C.P.No.338/2013, holding that the respondents/claimants are entitled compensation of 1,81,400/- with

interest @7.50% p.a.

4. Learned counsel for applicant submits that there is urgency in the present matter, because respondent filed execution application. He submits that if entire amount is recovered by execution application then, nothing survives in the first appeal.

5. Learned counsel for applicant submits that the Tribunal erred in coming to conclusion that the Insurance Company is liable to pay, though applicant brought on record evidence to show that the driver of the offending vehicle was holding fake license. He further submits that the Tribunal ought to have held that the Insurance Company is not liable to any compensation because of the evidence on record. He submits that they have good chance of success. He submits that in the interest of justice, this Court be pleased to stay the operation and implementation of the impugned judgment and award till hearing and final disposal of first appeal. He submits that if the stay is not granted, irreparable loss would be caused to applicant.

6. Learned counsel for applicant submits that he received instructions from his client that they are ready and willing to deposit the entire amount with interest in the Tribunal within four weeks. Statement accepted.

6. In the present proceeding, in an accident which occurred on 02.01.2012, the applicant sustained multiple body injuries. Hence, he filed claim petition under Section 166 of the Motor Vehicle Act.

7. Considering these facts and the reasons given by the trial court, I am of the opinion that respondents can be permitted to withdraw some amount without furnishing any security, but subject to outcome of first appeal.

8. Hence, the following order.

a) Civil application is allowed in terms of prayer clause (a) of the application which is reproduced as below, on condition that, applicant to deposit the entire award in Tribunal on or before 20.07.2019 failing which, the civil application shall stand

dismissed, without referring back to the Court. Prayer clause (a) reads thus;

“a) Pending the hearing and final disposal of appeal, this Honourable Court, by an order of stay, may kindly stay the operation, implementation and execution of the part of the impugned judgment and award dated 21.4.2018 passed by the Motor Accident Claims Tribunal Satara in MACP No.338/2013.”

b) If the amount is deposited within stipulated time, as stated above, respondent/claimant No.1 Vishal Krishna @ Shankar Sawant is entitled to withdraw 25% amount of total compensation with interest, without furnishing any security but, subject to outcome of first appeal.

c) Tribunal is directed to invest remaining amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

d) Liberty granted to respondent/claimant if he so desire to prefer an application for withdrawal of further amount and that

application be decided on its own merits.

e) Civil application disposed of accordingly.

(K.K.TATED, J.)