

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

**CIVIL APPLICATION NO.2375/2019
IN
FIRST APPEAL (ST)NO.16859/2019**

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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Advocate Mr.Sudhakar Pandaram I/b Adv. Milind More for appellant.

**CORAM : K. K. TATED, J
DATE : JULY 8, 2019.**

P.C.:

Not on board. Pursuant to preceipe dated 5.7.2019 filed by learned advocate for appellcant, matter is taken for production board for urgent orders.

2. Learned counsel for applicant submits that respondent/claimants filed execution application for recovery of entire awarded amount. Next date in the execution application is 24.7.2019. Hence, there is urgency.

3. By this civil application applicant/Insurance Company is seeking stay of operation and implementation of impugned judgment and award dated 1.1.2019 passed by MACT, Mumbai in MACP No.891/2013 holding that respondent/claimant is entitled sum of Rs.5,84,425/- by way of compensation with interest @ 8% p.a.

4. Learned counsel for applicant submits that in the present proceeding respondents/claimants placed on record policy which was not issued by Insurance Company. Said policy was fake policy. Therefore, Insurance Company is not liable to pay any compensation. These facts were not considered by the Court below, at the time of awarding compensation in favour of respondent and holding Insurance Company is liable to pay the same . 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 impugned judgment and award dated 1.1.2019 till hearing and final disposal of first appeal. He submits that if stay is not granted, irreparable loss would be caused to applicant.

5. Heard learned counsel for applicant. It is to be noted that in an accident which occurred on 3.4.2013, Mr.Arvind Giri suffered comminuted fracture right tibia and fibula, crushed injury to left foot with multiple tarsal and metatarsa, fracture with MD+ HTN ORIF(Rt) Tibiaad(L)Metatarsal bidebridement (L) foot K wire fixation on tarsal fracture and other injuries as per medical paper. Not only that he was in the Hospital from 3.4.2013 to 12.4.2013 for treatment and spend Rs.1,00,000/- on medical expenses. Because of accident, respondent/claimants filed an application u/s 166 of Motor Vehicle Act for compensation of Rs.4,00,000/-. The Tribunal after considering the evidence on record and medical papers held that

respondent/claimant is entitled sum of Rs. 5,84,425/- by way of compensation with interest @ 8% p.a.

6. Considering the injury sustained by respondent/claimant and the amount spent by him on medical treatment, I am satisfied that respondent can be permitted to withdraw some amount without furnishing any security, but subject to outcome of first appeal. Hence, the following order.

a) Civil application is allowed in terms of prayer clause (a) which is reproduced as below on condition that, Insurance Company to deposit entire awarded amount with interest in Tribunal on or before 23.7.2019 failing which first appeal shall stand dismissed without referring back to court.

b) If amount is deposited within stipulated period as mentioned hereinabove, Respondent Arvind Shivpujan Giri is

entitled to withdraw 50% amount with accrued interest without furnishing any security but subject to outcome of first appeal.

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

d) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for withdrawal of further amount and that application will be decided on its own merits.

e) Civil application allowed accordingly.

(K.K.TATED, J.)

