

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

**CIVIL APPLICATION NO.1378 OF 2019
IN
FIRST APPEAL (ST.) NO.20510 OF 2018**

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.Sanjay Krishnan i/b M/s.Leges Consultus
for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 23, 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 8.10.2017 passed by MACT, Mumbai in Application No.2626 of 2011 holding that Respondent original Claimants are entitled compensation of

Rs.1,56,860/- with 7.5% interest from the date of petition till realisation.

3 The learned counsel for the Applicant submits that if entire amount is recovered by the Respondent Claimant in Execution Application then nothing will survive in the present proceeding. He submits that Applicant has good chance of success in the present proceedings.

4 The learned counsel for the Applicant submits that in the present proceedings, Tribunal failed to consider the fact that Policy was Act policy and therefore, they are not liable to pay compensation to the 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 the First Appeal.

5 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 within four weeks from today in the Tribunal. Statement is accepted.

6 In the present proceedings, in an accident which occurred on 19.4.2011 original Claimant sustained injury. Doctor certificate shows 20%

permanent disability.

7 Considering these facts, I am of the opinion that Respondent original Claimant can withdraw some amount without furnishing any security but subject to outcome of the First Appeal. Hence, following order is passed:

A) Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit entire awarded amount along with interest in the Tribunal or before 31.5.2019 failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

"(a) Pending the hearing and final disposal of the Appeal this Hon'ble Court be pleased to stay the operation of the impugned Judgement and award dated 8th November, 2017 passed by the Hon'ble Member, MACT, Mumbai allowing Claim Petition bearing No.2626 of 2011 & directed this Applicant to pay the total amount of Rs.1,56,860/- (Rupees One Lakh Fifty Six Thousand Eight Hundred Sixty Only) with interest at the rate of 7.5% p.a. interest from the date of Application till realisation to the Respondent no.1 and then recover it from

the Respondent no.2."

B) If amount is deposited within stipulated time as stated hereinabove, Respondent original Claimant can withdraw 20% 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 be continued till further orders.

D) Liberty granted to the Claimant to make appropriate Application for withdrawal of further amount and that Application be decided on its own merits.

E) Civil application stands disposed of accordingly.

(K.K.TATED, J.)