

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

**CIVIL APPLICATION NO.3612 OF 2017**

**IN**

**FIRST APPEAL (ST) NO.27786 OF 2016**

|                                                                                                                             |                           |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Office Notes, Office<br>Memoranda of<br>Coram,<br>Appearances,<br>court's orders or<br>directions and<br>Registrar's orders | Court's or Judge's orders |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------|

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

Mr.Amol Gatane for the respondent no.1

**CORAM : K. K. TATED, J  
DATE : APRIL 23, 2019**

**P.C.:**

. Not on board. At the request of Advocate  
for the Applicant, matter is taken on board for  
urgent orders.

2 Heard.

3 By this Civil Application, Applicant  
Insurance Company is seeking stay of the  
operation and implementation of the impugned  
judgment and award dated 19.06.2013 passed  
by MACT, Thane in MACP No.807 of 2006

holding that Respondent original Claimants are entitled sum of Rs.7,75,518/- by way of compensation along with interest @ 7% p.a.

4 The learned counsel for the Applicant submits that Respondent original Claimant filed Execution Application. He submits that next date before the executing court is 2.5.2019. He 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 he received instruction from the Insurance Company that they will deposit entire awarded amount along with interest before the Tribunal within one week from today. Statement is accepted.

5 The learned counsel for the Respondent submits that, respondent may be permitted to withdraw the amount deposited by the Insurance Company in the Tribunal. He submits that in the present proceeding, in an accident which occurred on 9.9.2004 Applicant sustained permanent disability to the extent of 85%. In support of this contention, he relies on paragraph 13 of the impugned judgment and award passed by the Tribunal.

6 It is to be noted that there is a delay of

more than 2 years 360 days in filing the First Appeal. Not only that, Respondent original Claimant filed Execution Application and next date before the executing court is 2.5.2019. Considering these facts, Respondent original Claimant may permitted to withdraw 50% amount without furnishing any security subject to outcome of the First Appeal.

7 Considering the submissions made by the learned counsel for the Applicant, the averments made in Civil Application and as Applicants are ready and willing to deposit entire awarded amount along with interest before the Tribunal within one week from today, I am satisfied that the Applicant has made out a case for allowing the Civil Application. 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 on or before 3.5.2019, failing which, Civil Application shall stand dismissed without referring back 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 Judgment and award dated 19th June 2013 passed by Hon'ble Member, Thane allowing the Petition bearing No.807 of 2006 and directing this Appellant and the Respondent no.4 herein jointly and severally to deposit the compensation amount of Rs.7,75,518/- (Rupees Seven Lakhs Seventy Five Thousand and Five Hundred and Eighteen only) with interest at the rate of 7% interest from the date of application till its realization."

B. If amount is deposited within stipulated time as stated hereinabove, Respondent original Claimant is permitted to withdraw 50% amount without furnishing any security 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.)**