

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

**CIVIL APPLICATION NO.972 OF 2019
IN
FIRST APPEAL (ST.)NO.34447 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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Mrs.D.Shalini Shankar for the applicant

**CORAM : K. K. TATED, J
DATE : MARCH 12, 2019**

P.C.:

1 Heard.

2 By this Civil Application, applicant Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 14.06.2018 passed by MACT, Mumbai in Application No.1101 of 2014 awarding sum of Rs.10,12,800/- compensation with 8% interest p.a. to the respondents original claimants.

3 The learned counsel for the applicant submits that the Tribunal erred in coming to the conclusion that the respondents original claimants are entitled compensation of more than Rs.10 lacs. She submits that they have good chance of success in the present proceeding. She further submits that respondents original claimants filed execution application No.406 of 2018 for recovery of entire amount. She submits that in that execution proceeding executing court issued attachment order attaching applicants property for sum of Rs.13,26,289/-. She submits that if entire amount is recovered in Execution Application then nothing will survive in the present First Appeal. She submits that she received instruction from her client that they are ready and willing to deposit entire amount within six weeks from today. She submits that in the interest of Justice, this Hon'ble Court be pleased to stay the execution and operation of the impugned judgment and award dated 14.06.2018 till the hearing and final disposal of the First Appeal.

4 Considering the submissions made by the learned counsel for the applicant, the

averments made in Civil Application and as applicant is ready and willing to deposit entire awarded amount in the Tribunal within six weeks from today, I am satisfied that the applicant has made out a case for allowing Civil Application. But at the same time Civil Application No.973 of 2019 filed by the respondent original claimant, for withdrawal of the amount be decided on its own merits, after hearing both the sides as no one appeared on behalf of claimant when this matter was called out. Hence, following order:

A. Civil Application is allowed in terms of prayer clause (a) on condition that applicant to deposit entire awarded amount including interest in the Tribunal within six weeks from today, 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 present First Appeal, this Hon’ble Court be please to stay the effect, implementation and or execution of the impugned Judgment and order dated 14/06/2018 passed by the Hon’ble Court of Member, in Motor Accident Claim Petition

No.1101 of 2014.”

B. If amount is deposited within stipulated time as stated hereinabove, Tribunal is directed to invest the said amount in Fixed Deposit of any nationalized bank for a period of one year and said be continued till the hearing and final disposal of the First Appeal.

C. Civil Application stands disposed of accordingly.

D. Civil Application No.973 of 2019 filed by the respondent original claimant for withdrawal of the amount be decided on its own merits.

E. No order as to costs.

(K.K. TATED, J.)