

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

**CIVIL APPLICATION NO.2827/2018
in
FIRST APPEAL NO.36004/2017**

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.AP Kulkarni for applicant.
Ms Teresa Daulat a/w Priyank Gidh i/b TRD
Asso.for Respondent no.4.

**CORAM : K. K. TATED, J
DATE : AUGUST 5, 2019.**

P.C.:

Heard learned counsel for parties.

2. Though other Respondents are duly served, no one appeared when the matter called out.

3. By this civil application, applicant/Insurance Company is seeking stay of operation and implementation of impugned Judgment and Award dated 7.1.2017 passed by MACT, Pune in Petition

No.264/2011.

4. Learned counsel for applicant submits that as per earlier order dated 6.3.2019 passed by this Court, they already deposited entire awarded amount with interest in the Tribunal. Statement is accepted.

5 Learned advocate for applicant submits that in the present proceeding the Tribunal awarded compensation at higher side. Tribunal has not considered contributing negligency at the time of deciding compensation payable to Respondent. He submits that they have good chance of success. He submits that pending the hearing and final disposal of First Appeal, this court be pleased to stay operation and implementation of impugned Judgment and Award. He submits that if entire amount is withdrawn by Respondent then nothing will survive in present proceeding.

6. It is to be noted that in the present proceeding in an accident, on 24.12.2010 original claimant no.1 lost his wife Vaishali. Hence, he filed petition u/s 166 of Motor Vehicle Act for a sum of Rs.50,00,000/- with

interest. On the day of accident deceased was 32 years old. She was Graduate. She was doing business of Interior Decoration and was earning 2,31,258/- P.A.

7 Considering the fact that Claimant No. 1 has to maintain both minor children I am of the opinion that, Claimant no.1 can be permitted to withdraw some amount without furnishing any security.

8. Hence, following order.

A) Civil application allowed in terms of prayer Clause(a) which reads thus;

“(a) That pending hearing and final disposal following order is passed: the present First Appeal, the effect, operation, implementation and execution of the impugned Judgment and Award dated 7.1.2017 passed by the MACT, Pune in MACP No.264/2011 and disbursal of amount there under, be kindly stayed.”

B) Claimant no.1 Pankaj @ Pankajkumar Manikchand Tatiya is permitted to withdraw 20 % of total compensation including interest without furnishing any security.

C) Tribunal is directed to invest balance amount in Fixed Deposit of any Nationalized Bank and same to continue till further orders .

D) Civil application disposed of accordingly.

E) No order as cost.

(K.K.TATED, J.)