

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

**CIVIL APPLICATION NO. 2341 OF 2014
IN
FIRST APPEAL (ST.) NO. 17681 OF 2014**

Bajaj Allianz General Insurance Co. Ltd. ... Applicant.
V/s.
Lata Machindra Kadam & Ors. ... Respondents

Mr. M. M. Sathey for the applicant.
Mr. Vaibhav Gaikwad for the respondents.

**CORAM : K. K. TATED, J.
DATED : 18/02/2015.**

P.C.:

. Heard learned Counsel for the parties.

2 This application is preferred by the Insurance company for stay of the Judgment and Award dated 04.09.2013 passed by the Motor Accident Claims Tribunal, Vaduj, Dist. Satara in M.A.C.P No. 76 of 2010 (old M.A.C.P No. 12 of 2009).

3 The learned Counsel for the applicant submits that as per the earlier order passed by this court, they already deposited entire decretal amount before the Tribunal. He submits that at the time of filing of present First Appeal, they deposited sum of Rs.25,000/- in the Registry of this Court. The same amount to be transferred to the Tribunal with accrued interest, if any.

4 The learned Counsel for the applicant submits that in the present case, the Tribunal has considered age of the deceased 37 years and taken multiplier of 15. He submits that the claimants on their own in claim petition stated that the deceased was of 45 years. Whereas, the postmortem report shows that deceased was 50 years. Hence, the Tribunal erred in coming to the conclusion that multiplier to be taken of 15 at the time of calculating the compensation.

5 The learned Counsel for the applicant further submits that the Tribunal has taken the income of the deceased on higher side. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned Award dated 04.09.2013 till the hearing and final disposal of the First Appeal. He submits that if the entire amount is withdrawn by the respondent claimant, nothing will survive in the present First Appeal.

6 On the other hand, the learned Counsel for the respondents claimants vehemently opposed the present Civil Application. He submits that the claimant no.1 lost her husband who was earning near about Rs.15,000/- per month. He submits that they also preferred Civil Application no. 3160 of 2014 for withdrawal of amount.

7 Considering the submissions made by learned counsel for the applicant and averments made in civil application, I am satisfied that applicant has made out the case for allowing the civil application.

8 Hence, the following order.

a) The operation and implementation of the impugned

Judgment and Award dated 04.09.2013 passed by the Motor Accident Claims Tribunal, Vaduj, Dist. Satara in M.A.C.P No. 76 of 2010 (old M.A.C.P No. 12 of 2009), is stayed till the hearing and final disposal of the First Appeal.

b) Civil Application preferred by the claimants being Civil Application no. 3160 of 2014 will be decided on its own merits.

c) The Tribunal is directed to invest the amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)