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

CIVIL APPLICATION NO.2867 OF 2014
IN
FIRST APPEAL (ST) NO.32069 OF 2012

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. Akshay P. Shinde for the Applicant
Mr. Rahul Mehta i/b. KMC Legal Venture for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 12, 2015

P.C.:

1. Heard. This Application is preferred by father in law and mother in law of deceased Hasina who died in an accident which occurred on 02/02/2010 for withdrawal of the amount. The learned counsel for the Applicant submits that on the date of accident, the deceased was 28 years old. He was doing tailoring business and was also selling ready made garments and was earning Rs.9000/- pm. He submits that the Tribunal, considering the evidence on record, granted compensation of Rs.4,90,000/- on the basis of notional income of Rs.3000/- pm. He submits that because of an old age of the Applicant, they required the amount awarded by the Tribunal. He

further submits if Civil Application is not allowed, irreparable loss and injury will be caused to the Applicant.

2. On the other hand, the learned counsel for the Respondent Insurance Co. opposed the Civil Application and submits that if entire amount is withdrawn by the Applicant without furnishing any security, it would be difficult for them to recover the same, if they succeed in the appeal.

3. Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in paragraph 6 of the Application, I am satisfied that the Applicants have made out a case for allowing them to withdraw 25% each of the amount deposited, without furnishing any security, subject to outcome of the First Appeal.

4. Hence, the following order:

a) Applicants are allowed to withdraw 25% each of the amount deposited, without furnishing any security, subject to outcome of the First Appeal.

b) The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till further orders.

c) Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on its own merits.

d) Amount of Rs.25,000/- deposited at the time of filing the appeal be transferred to the Trial Court in the respective MACP Application.

e) Civil Application stands disposed off accordingly.

JUDGE