

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

CIVIL APPLICATION NO.2513/2015  
IN  
FIRST APPEAL (ST) NO.20639/2015

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|-----------------------------------------------------------------------------------------------------------|---------------------------|
| 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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Ms. Deepika Motagi with Priti Pandey i/b.  
Respondent Juris for the Applicant

**CORAM : K. K. TATED, J.**  
**DATE : JULY 31, 2015**

**P.C.:**

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is preferred by Insurance Co. for stay of the operation and implementation of the impugned award dated 12/12/2014 passed by the MACT, Ratnagiri in MACP No.40/2012 by which the Trial Court awarded Rs.13 lacs with 7.5% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent filed Execution Application No.7/15 for recovery of entire amount.

She submits that if entire amount is recovered by the Respondent-Claimant, nothing will survive in the present proceedings.

4. The learned counsel for the Applicant submits that the Tribunal awarded compensation on higher side. She further submits that the Tribunal erred in awarding compensation on the basis of the income of the deceased i.e. Rs.13500/- p.m. She submits that the Applicant has good chance of success in the matter and if stay is not granted irreparable loss and injury will be caused to the Applicant.

5. The learned counsel for the Applicant submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire awarded amount in the Tribunal within 4 weeks from today.

6. In the present proceedings, the claimant lost her husband in an accident which occurred on 21/05/2012. At that time, the deceased Asfaq Usman Naik was 41 years old and he was dealing in the business of aluminum and earning Rs.13500/- p.m. Considering the fact that the claimant has to maintain her parent and as there is delay of 135

days in filing the First Appeal, I am of the opinion that the claimants No.1, 5 and 6 are entitled to withdraw some amount without furnishing any security, subject to outcome of the First Appeal.

7. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 12/12/2014 passed by the MACT, Ratnagiri in MACP No.40/2012 is stayed subject to the Applicant depositing the entire award amount with costs and interest, if any, in the Tribunal within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If amount is not deposited within stipulated time as stated hereinabove the Respondent-Claimants are entitled to execute the award as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimant are entitled to withdraw the award amount as under, with accrued interest, without furnishing any security, subject to outcome of the First Appeal.

(i) Claimant No.1 Smt. Afsana Ashfaq Naik  
Rs.3,50,000/-

(ii) Claimant No.5 Smt. Rabiya Usman Naik Rs. 1,00,000/-

(iii) Claimant No. 6 Usman Yusuf Naik Rs.1,00,000/-

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

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

f. Civil Application stands disposed off accordingly.

**JUDGE**