

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

**CIVIL APPLICATION NO. 3160 OF 2014
IN
FIRST APPEAL (ST.) NO. 17681 OF 2014**

Lata Machindra Kadam & Ors. .. Applicants
V/s.
Bajaj Allianz General Insurance Co. Ltd. ... Respondent

Mr. Vaibhav Gaikwad for the applicants.
Mr. M.M. Sathey for the respondent.

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

P.C.:

. Heard learned Counsel for the parties.

2 This application is preferred by claimants for withdrawal of amount deposited by the Appellant Insurance Company in the Tribunal.

3 The learned Counsel for the claimants submits that in the accident which occurred on 30.05.2008, the claimant no.1 lost her husband Machindra Kadam aged about 45 years. At that time, the deceased was cultivating 25 acres agriculture land and apart from that he was selling milk and doing business of goat farming and poultry. His annual income was Rs. 2,53,000/- He was having 10 jersey cows, 10 she goats and two bullocks.

4 The learned Counsel for the claimants submits that because of

death of Machindra, the entire source of income stopped. He further submits that the claimant nos. 2 and 3 are taking education. It is very difficult for claimant no.1 to bare day-to-day expenses also. In support of his contention, the learned Counsel for the applicant relies on paragraph 5 of the Civil Application.

5 On the basis of these submissions, the learned Counsel for the claimants submits that claimants may be allowed to withdraw the amount deposited by the insurance company in the Tribunal.

6 On the other hand, the learned Counsel for the appellant insurance company vehemently opposed the present Civil Application. He submits that if the claimants are allowed to withdraw the entire amount without furnishing any security, it will be very difficult for them to recover the same in case they succeed in this court. He submits that the Tribunal has awarded enhanced compensation in favour of the claimants. The Tribunal has calculated 15 multiplier considering the age of deceased as 37 years. Whereas, in Claim Petition the claimants stated that the deceased on the date of accident aged about 45 years. He further submits that the agriculture land is with the claimants. They can get income out of said land. Hence, the present Civil Application preferred by the claimant required to be rejected.

7 I heard both the sides at length. It is to be noted that in accident which occurred on 30.05.2008, the claimant no.1 lost her husband. At present, claimant nos. 2 and 3 are taking education. The claimant no.1 is household. She does not have any source of income as stated in

paragraph 5 of this application.

8 Considering this fact, I am of the opinion that applicants have made out case for withdrawing some amount without furnishing any security.

9 Hence, the following order.

 a) Each claimant is entitled to withdraw 10% amount deposited by the insurance company in the Tribunal without furnishing any security.

 b) Civil Application is disposed of accordingly.

(K.K.TATED, J.)