

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

**CIVIL APPLICATION NO. 3259 OF 2014
IN
FIRST APPEAL NO. 1440 OF 2014**

National Insurance Co. Ltd.	... Applicant
V/s.	
Smt. Nazim Ayub Herawade & Ors.	... Respondents

Mr. Atul Gatne for the applicant.
Mr. Akshay Shinde for the respondent nos. 1 to 7.

**CORAM : K. K. TATED, J.
DATED : 24/07/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by Insurance Company for stay of operation and implementation of the Award dated 01.03.2014 passed by the Motor Accident Claims Tribunal, Jaisingpur, Dist. Kolhapur in M.A.C.P. No. 57 of 2012 awarding sum of Rs.10,06,500/- with 7.5% interest p.a. by way of compensation.

3 The learned Counsel for the applicant submits that they already deposited the entire awarded amount in the Tribunal. Statement is accepted.

4 The learned Counsel for the applicant submits the in the present proceeding they are challenging the quantum of compensation to the extent of Rs.5,74,500/- only. He further submits that Insurance

Company challenging the remaining amount on the ground of contributed negligence. He further submits that if the amount is withdrawn by the respondents-claimants, nothing will survive in the present proceeding. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned award till the hearing and final disposal of the First Appeal.

5 On the other hand, the learned Counsel for the respondents-claimants vehemently opposed the present Civil Application. He submits that the Tribunal awarded compensation after considering the evidence on record. He submits that in the present proceeding, in the accident which occurred on 23.01.2012, the claimant no.1 lost her husband Ayub, who was 29 years old on the date of accident. He further submits that as per the contention of the claimants he was earning Rs.15,000/- per month. He submits that the claimants also preferred Civil Application no. 4209 of 2014 for withdrawal of amount.

6 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.

7 It is to be noted that in the present proceeding, the applicant Insurance Company is challenging quantum of compensation to the extent of Rs.5,74,500/- only. Hence, the remaining amount can be withdrawn by the respondents-claimants as per their shares.

8 Hence, the following order is passed:

ORDER

a) The operation and implementation of impugned Award dated 01.03.2014 passed by the Motor Accident Claims Tribunal, Jaisingpur, Dist. Kolhapur in M.A.C.P. No. 57 of 2012, is stayed till the hearing and final disposal of the First Appeal.

b) The claimant no.1 Smt. Nasim Ayub Herawade, the Claimant no.5 Smt. Jubeda Papalal Herawade and the claimant no. 6 Smt. Paravin Ariff Dundage are entitled to withdraw Rs.1,40,000/- each with accrued interest without furnishing any security.

c) The Tribunal is directed to invest the remaining amount in Fixed deposits account 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) The claimant no.1 Smt. Nasim Ayub Herawade is entitled to withdraw quarterly interest on the fixed deposit amount for and on behalf of minors for their maintenance, subject to outcome of the First Appeal.

e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)