

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.738 OF 2015
IN
FIRST APPEAL (ST) NO. 24927 OF 2014

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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Mr. M.M. Sathaye for the Applicant.

CORAM : K. K. TATED, J.

DATE : FEBRUARY 17, 2015

P.C.:

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

2. The learned counsel for the Applicants submits that the Respondent claimant filed Execution Application No.9/2014 for recovery of the amount as per the impugned judgment and award dated 28/01/2014 passed by the MACT Jaisingpur in MACP No.6/2012.

3. This Application is for stay of the operation and implementation of the impugned judgment and award. The learned counsel for the Applicant submits that the Tribunal has awarded compensation on higher side. He submits that the Tribunal ought to have awarded half of the total compensation because the deceased was

unmarried. He further submits the Applicant has placed on record sufficient material to show that because of negligence on the part of the deceased, the accident happened. These facts are not considered by the Tribunal at the time of awarding compensation. He submits that, they have good chance of success in the present proceedings. In the interest of justice, pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award. He submits that if stay is not granted, irreparable loss and injury will be caused to the Applicant. The learned counsel for the Insurance Co. submits that he received instructions from the Insurance Co. that they are ready and willing to deposit the entire decretal amount within four weeks from today. Statement is accepted.

4. In the present proceedings, in an accident which occurred on 24/10/2011 the Respondent claimant lost their son who was of 33 years old. The Trial Court has considered the notional income i.e. Rs.3000/- pm and awarded compensation of Rs.4,12,500/-.

5. Considering these facts, the Respondents claimants are entitled to withdraw some amount at

present without furnishing any security.

6. Hence, the following order:

a) The the operation and implementation of the impugned judgment and award dated 28/01/2014 passed by the MACT Jaisingpur in MACP No.6/2012 is stayed till further orders, subject to the Applicant depositing the entire decretal amount along with interest, costs, if any within two weeks from today in the Tribunal, failing which the interim stay shall stand vacated without further reference to the Court.

b) If the entire decretal amount is deposited within stipulated time as stated hereinabove, the Respondent Nos.1 and 2 original claimants viz. Smt. Shantabai Appaso Ghorpade and Shri Appaso Babaji Ghorpade are entitled to withdraw some of Rs.1,00,000/- each with accrued interest without furnishing any security.

c) 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.

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

e) Civil Application stands disposed off accordingly.

JUDGE