

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

**CIVIL APPLICATION NO. 1568 OF 2015
IN
FIRST APPEAL (ST.) NO. 741 OF 2015**

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. Nikhil Mehta i/b K.M.C. legal Venture for the applicant.

**CORAM : K. K. TATED, J.
DATED : 27/04/2015.**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by insurance company for stay of operation and implementation of the impugned Judgment and Award dated 26.08.2013 passed by the the Motor Accident Claims Tribunal, Pune in Claim Application no. 18 of 2012 awarding sum of Rs.15,62,000/- along with 7% interest per annum by way of compensation in favour of respondents claimants.

3 The learned Counsel for the applicant submits that the Tribunal has awarded the compensation on higher side. He submits that the Tribunal has considered the salary of the deceased @ Rs.7000/-

per month. He further submits that the Tribunal has not considered contributory negligence at the time of fixing amount of compensation. He submits that they have good chance of success in the present proceeding. He submits that if entire amount is recovered by the respondents claimants in execution proceeding, nothing will survives in the present litigation. Hence, in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned Judgment and Award dated 26.08.2014 passed by the Tribunal.

4 The learned Counsel for the applicant submits that he received instructions from the applicant insurance company that they are ready and willing to deposit the entire awarded amount with interest and costs in Tribunal within four weeks from today.

5 In the present proceeding, the respondents lost their son Naresh on the date of accident i.e. 12.10.2011. He was 22 years old and was earning Rs.7,000/- per month. Considering this fact, I am of the opinion that the respondents claimants are entitled to withdraw at present some amount without furnishing any security.

6 Hence, the following order.

a) The operation and implementation of Judgment and Award dated 22.08.2014 passed by the Motor Accident Claims Tribunal, Pune in Claim Application No. 18 of 2012 is stayed, on condition

that applicant to deposit the entire awarded amount including interest and costs in the Tribunal within four weeks from today, failing which civil application shall stand dismissed without referring back to the court .

b) If amount is not deposited within stipulated time as stated herein above, respondents claimants are entitled to execute the award according to law.

c) If amount is deposited within stipulated time as stated herein above, Claimant No.1 Ramesh Jagannath Babar and Claimant No.2 Sou. Shobha Ramesh Babar are entitled to withdraw sum of Rs.2,50,000/- each with accrued interest without furnishing any security.

d) Liberty granted to the respondents claimants to prefer appropriate application, if they so desire, for withdrawal of amount and that application will be decided on its own merits.

e) The Tribunal is directed to invest the remaining amount in Fixed deposits 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.

f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)