

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

CIVIL APPLICATION NO.840 OF 2015
IN
FIRST APPEAL NO.1686 OF 2013

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. C. M. Lokesh for the Applicant
Mr. U. B. Nighot for the Respondent.

CORAM : K. K. TATED, J.
DATE : APRIL 10, 2015

P.C.:

1. Heard. This Application is preferred by the claimants for withdrawal of the amount deposited by the Respondent in the Tribunal.

2. In the present proceedings, in an accident which occurred on 27/05/2009, the Applicant lost their son. Hence, they filed an Application under section 163A of the Motor Vehicles Act claiming sum of Rs.74,57,839/- by way of compensation. The Trial Court, considering the evidence on record awarded sum of Rs.2,74,500/- with 7.5% interest by way of compensation.

3. The learned counsel for the Applicant submits that the Applicant is facing financial hardship for their livelihood. He further submits that the sister of the deceased is of 21 years and she is about to marry. He submits that the Applicant requires amount for performing her marriage. He further submits that the brother of the deceased also studying in a college. It is very difficult for them to bear his education expenses. Hence, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Respondent original Appellant in the Tribunal. He further submits that if the Application is not allowed, the Applicant will suffer irreparable loss, harm and injury.

4. On the other hand, the learned counsel for the Respondent vehemently opposed the present Civil Application. He submits that if the entire amount is withdrawn by the Applicant without furnishing any security, it will be very difficult for them to recover the same, in case they succeed in the present appeal. Hence, there is no substance in the Civil Application. Same be dismissed with costs.

5. Heard both sides at length. It is to be noted that, the Applicant lost their son in the accident. The sister of the deceased is of 21 years and she is about to marry. Not only that, the brother of the deceased is studying in a college. Considering these facts and the reasons disclosed in paragraph 4 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Applicant to withdraw some amount at present. Hence, the following order:

a. The Applicant No.1 Ganesh Anantha Dukare and No.2 Anantha Vithoba Dukare are allowed to withdraw 25% amount each without furnishing any security.

b. Both the Applicants are entitled to withdraw further 25% amount each by furnishing solvent security to the satisfaction of the Trial Court.

c. Civil application stands disposed off accordingly.

JUDGE