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

CIVIL APPLICATION NO.514 OF 2015
IN
FIRST APPEAL No. 1436 OF 2014

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders

Mr. M. A. Utagikar for the Applicant
Mr. Ketan Joshi for the Appellant
Mr. Sanjeev P. Kadam for Respondent No.4.

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

P.C.:

1. Heard. This Application is preferred by the claimant for allowing them to withdraw the amount deposited by the Appellant Insurance Co.

2. In the present proceedings the husband of the Applicant No.1 Sanjay Kashinath Pawar died in the accident which occurred on 11/11/2010. On the date of accident, deceased was 38 years old and he was working with Shree Padma Publicity, Pune and earning Rs.8200/- pm. The Applicant preferred Application under section 166A of the Motor Vehicles Act for compensation of Rs.10 lacs. The Tribunal, considering the evidence on record held that the dependency in the present matter

should be Rs.98,400/- per year. The Tribunal has considered multiplier 15 and awarded sum of Rs.16,51,000/- by way of compensation with 8% p.a. interest from the date of petition till realisation. The Tribunal held that the claimant Nos.1 to 3 are entitled to 25% compensation each and original opponent Nos.3 and 4 10% and 15% respectively.

3. The learned counsel for the Applicant submits that the deceased was only working member in the family of Applicant and all the family members were dependent on the deceased Sanjay K. Pawar. He submits that the Applicant Nos.2 and 3 are minors and taking education. Therefore, it is very difficult for the the Applicant to bear the day-to-day expenses and the education expenses of the minor. He submits that this Hon'ble Court be pleased to permit the Applicant to without 50% amount deposited by the Appellant Insurance Co. He submits that if the Application is not allowed, irreparable loss, harm and injury will be caused to the Applicant.

4. On the other hand, the learned counsel for the Appellant Insurance Co. vehemently opposed the Civil Application. He submits that the

Insurance Co. is not liable to pay compensation as awarded by the Tribunal. He submits that the Tribunal has not considered the evidence on record to hold that the Insurance Co. is not liable to pay compensation. He submits that if the amount is withdrawn by the Applicant without furnishing any security and if the Appellant succeeds in the present proceedings, it will be very difficult for them to recover the said amount from the claimant. If this court allows the Applicant to withdraw the amount, the court must insist the Applicant to provide solvent security to the satisfaction of the Trial Court.

5. In the present proceedings the Applicant is a housewife. She looks after two minor children. Both of them are taking education. Considering the reasons disclosed by the Applicant in paragraph 3 of the Civil Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application partly.

6. Hence, the following order:

a. The Applicant No.1 Mrs. Sanjivani Sanjay Pawar is permitted to withdraw 25% amount deposited by the Insurance Co. in the Tribunal without furnishing any security, subject to the outcome of the First Appeal.

b. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, as per award dated 13/11/2013 initially for a period of one year which will be renewed from time to time till further orders.

c. The Applicant No.1 is entitled withdraw quarterly interest amount deposited in the name of Applicant No.2 Mast. Kedar Sanjay Pawar and Applicant No.3 Mast. Om Sanjay Pawar without furnishing any security, subject to the outcome of the First Appeal.

d. Civil Application stands disposed off accordingly.

JUDGE