

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.498 OF 2015
IN
FIRST APPEAL (ST) NO.2654 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. S.S. Deshmukh for the Applicant.

CORAM : K. K. TATED, J.
DATE : FEBRUARY 9, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders. He submits that the Respondent claimant filed Execution Application for recovery of the decretal amount. He further submits if the decretal amount is recovered by the Applicant, nothing will survive in the appeal.

2. Leave to amend.

3. This Application is preferred by Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 23/05/2014 passed by the MACT Satara in MACP No.485/2012 awarding compensation of Rs.11 lacs with 7.5% p.a. interest to the Respondent claimant.

4. The learned counsel for the Applicant submits that he received instructions from the Applicant that they are ready and willing to deposit the entire decretal amount in the Tribunal within 4 weeks from today. Statement is accepted.

5. In the present proceedings, the Respondent No.1 lost her husband in an accident which occurred on 26/09/2012. On the date of accident, he was 49 years old. He was doing agricultural work as well as milk business. Out of that he used to earn yearly income of Rs.2.50 lacs to 3.00 lacs. On the basis of the income of the deceased, the claimants filed Application under section 166 of the Motor Vehicles Act for compensation of Rs.45,50,000/-. The Tribunal, considering the income of the deceased @ Rs.79,500/- p.a., and awarded compensation of Rs.11 lacs along with other benefits.

6. Considering these facts, I am of the opinion that the Respondents – original claimants are entitled to withdraw some amount without furnishing any security. Liberty granted to the Respondent - original claimants to file an appropriate Application for withdrawal of further

amount, which will be decided on its own merits.

Hence, the following order:

a) Civil Application allowed in terms of prayer clause (a), subject to the Applicant depositing the entire decretal amount with interest, cost if any, in the Tribunal within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b) If the amount is deposited within stipulated time as stated hereinabove, the Respondents claimants can withdraw the amount with interest, without furnishing any security in the following manner:

i) Respondent No.1 Manda Gorak Jadhav is entitled to withdraw Rs.2 lacs.

ii) Respondent Nos.2 to 5 vis. Abhijeet, Avinash, Kalyani and Vivek respectively – Rs.25,000/- each.

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

d) Civil Application stands disposed off accordingly.

JUDGE