

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

CIVIL APPLICATION NO.3301/2014
IN
FIRST APPEAL (ST) NO.4756/2013

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. Sandesh D. Patil for the Applicant
Mr. Sandeep S. Jinsiwale for the Respondent

CORAM : K. K. TATED, J.
DATE : AUGUST 5, 2015

P.C.:

1. Heard. This Application is preferred by the claimant for withdrawal of the amount deposited by the Insurance Company in the Tribunal.

2. The learned counsel for the Applicant submits that in an accident which occurred on 12/10/2001 the claimant lost her husband. On the date of accident he was carrying on a partnership business in the name and style M/s. Vyankatesh Construction. The Applicant Nos.2 and 3 are taking education. He further submits that the claimant No.5, mother in law of the Applicant is a senior citizen and she needs medical treatment. He submits that Applicant No.1 is housewife. Hence

this Hon'ble Court be pleased to allow the Applicant to withdraw some amount without furnishing any security.

3. On the other hand, the learned counsel for the Appellant Insurance Company vehemently opposed the Civil Application. He submits that the Tribunal awarded compensation on higher side. The Tribunal has not considered the contributory negligence on the part of the deceased. The claimants have not produced on record any cogent evidence to show the income of the deceased before the accident. He submits that the Appellant / Insurance Co. has good chance of success. He submits that if entire amount is withdrawn by the Respondent-claimant nothing will survive in the present proceedings. If this court allows the Applicant to withdraw some amount, then the Applicant may be directed to furnish solvent security to the satisfaction of the Trial Court.

4. Heard the learned counsel for the parties. In the present proceedings, the claimant No.1 lost her husband. At the time of accident, he was 36 years old and was carrying on business in partnership firm known as M/s. Vyankatesh

Construction. The claimant No.1 has to maintain her two children and her mother-in-law who is a senior citizen. Considering these facts, I am of the opinion that the claimant No.1,2 and 5 are entitled to withdraw some amount without furnishing any security subject to out come of the appeal. Hence, following order is passed:

a. The claimants are entitled to withdraw the following amount with interest, without furnishing any security subject to out come of the appeal:

- i. Claimant No.1 Gita Shrinivas Manglori -
Rs. 2,00,000/-
- ii. Claimant No.2 Nikhil Shrinivas Manglori -
Rs. 1,00,000/-
- iii. Claimant No.5 Anantabai Vyankatesh Manglori Rs.2,00,000/-

b. The claimant Gita Shrinivas Manglori is permitted to withdraw the quarterly interest on fixed deposit of Rs.2 lacs for and on behalf of claimant No.3.

c. Civil application stands disposed off accordingly.

JUDGE