

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

**CIVIL APPLICATION NO. 515 OF 2015
IN
FIRST APPEAL NO. 1497 OF 2014**

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. M. A. Utagikar for the applicants.
Mr. D. R. Mahadik for the respondent.

**CORAM : K. K. TATED, J.
DATED : 11/06/2015.**

P.C.:

. Heard learned Counsel for the parties.

2 This Application is preferred by the claimant for withdrawal of amount deposited by Appellant the Insurance Co. pursuant to the order passed by this Court.

3 In the present proceeding, the accident occurred on 21.08.2008 in which the husband of applicant no.1 Tatya Haribhau Shinde sustained several injuries. Thereafter, he was admitted in the hospital and died on 18.12.2008. On the date of accident, he was 35 years old. He was doing agricultural activities. Hence, the claimant filed application under Section 166 of M.V. Act 1988 for compensation of Rs.20,00,000/- with interest @

12% per annum.

4 Considering evidence on record, the Tribunal awarded sum of Rs.23,04,354/- with 7% interest to the claimant.

5 The learned counsel for the applicant submits that the applicant has to maintain her two minor children as well as father-in-law and mother-in-law, who are Senior Citizens. He submits that it is difficult for the applicant to maintain her family because of financial crisis. He submits that applicant may be allowed to withdraw the amount deposited by the appellant Insurance Co. He submits that if Civil Application is not allowed irreparable loss will be caused to the applicant.

6 On the other hand, the learned counsel for the appellant Insurance Co. vehemently opposed the present Civil Application. He submits that if entire amount is withdrawn by the claimant, nothing will survive in the present First Appeal. He submits that if this Hon'ble Court allowed the applicant to withdraw the amount, then they may be directed to provide solvent security to the satisfaction of the Trial Court.

7 I heard both the sides at length. In the present proceeding, the applicant no.1 lost her husband who was 35 years old. The applicant nos. 2 and 3 are minors, who are taking education and

applicant nos. 4 and 5 are parents of the deceased who are Senior citizens.

8 Considering the submissions made by the learned counsel for the applicant and averments made in Civil Application, I am satisfied that applicant has made out case for allowing some amount during the pendency of the present First Appeal.

9 Hence, the following order.

a) Applicant No.1 Smt. Sangita Tatyia Shinde is allowed to withdraw sum of Rs.5,00,000/- with accrued interest without furnishing any security subject to the outcome of the First Appeal.

b) Applicant Nos.4 & 5 Shri. Haribhau Laxman Shinde and Mrs. Changunabai Haribhau Shinde are allowed to withdraw sum of Rs.1,50,000/- each with accrued interest without furnishing any security subject to the outcome of the First Appeal.

c) 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.

d) Applicant No.1 Smt. Sangita Tatyia Shinde is entitled to withdraw quarterly interest on the said Fixed deposit without furnishing any

security subject to the outcome of the First Appeal for the benefit of the applicant nos. 2 and 3, who are minors.

e) Civil application stands disposed off accordingly.

(K.K.TATED, J.)