

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

**CIVIL APPLICATION NO. 1504 OF 2015
IN
FIRST APPEAL (ST.) NO. 5215 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. H. G. Misar for the applicant.

**CORAM : K. K. TATED, J.
DATED : 18/04/2015.**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 The learned Counsel for the applicant submits that the respondent claimants filed execution application for recovery of awarded amount. The next date in the said proceeding is 30.04.2015. Hence, there is a urgency.

3 This application is preferred by insurance company for stay of operation and implementation of the Judgment and Award dated 16.09.2014 passed by the Motor Accident Claims Tribunal, Sangli in M.A.C.P. No. 268 of 2011 by which the Tribunal held that respondents claimants are entitled to compensation of Rs.23,08,750/- with 6% interest per annum.

4 The learned Counsel for the applicant submits that the Tribunal failed to consider that the claimant

no.1 is getting the family pension. He submits that in any case the Tribunal has awarded compensation on higher side. He submits that they have good chance of success in the present matter. He submits that if entire amount is withdrawn by the claimant in execution application, nothing will survive in the present proceeding. He submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of Judgment and Award till further orders. He further submits that if stay is not granted, irreparable loss and injury will be caused to the applicant.

5 The learned Counsel for the applicant submits that he received instructions from the applicant insurance company that they are ready and willing to deposit entire awarded amount within four weeks from today before the Tribunal. Statement is accepted.

6 In the present proceeding, the claimant no.1 lost her husband in the accident which occurred on 05.03.2011. On the date of accident, the deceased was 46 years old. He was ex-military man. The claimant no.1 has to maintain her two minor children as well as father-in-law and mother-in-law.

7 Considering this fact, I am of the opinion that at present, claimant nos. 1, 4 and 5 are entitled to withdraw some amount without furnishing any security.

8 Considering the submissions made by learned counsel for the applicant, averments made in civil

application and as applicant is ready and willing to deposit entire awarded amount before the Tribunal, I am satisfied that applicant has made out the case for allowing the civil application.

9 As this Civil Application is decided without issuing notice to the respondents claimants, liberty granted them to take out appropriate application, if they so desire, for withdrawal of the amount and that application will be decided on its own merits.

10 Hence, the following order.

ORDER

a) The operation and implementation of Judgment and Award dated 16.09.2014 passed by the the Motor Accident Claims Tribunal, Sangli in M.A.C.P. No. 268 of 2011, is stayed on condition that applicant to deposit entire awarded amount alongwith interest and cost in the Tribunal within four weeks from today, failing which civil application shall stand dismissed without referring back to the court .

b) If amount is not deposited within stipulated time as stated herein above, liberty granted to the claimants to proceed with the execution application according to law for recovery of awarded amount.

c) If amount is deposited within stipulated time as stated herein above, the claimants are entitled to withdraw the following amounts without furnishing any security but subject to the outcome of the First Appeal :

i) Claimant no.1 Smt. Vandana Vishnu

Dagade, Rs.2,00,000/- with accrued interest.

ii) Claimant no.4 Shri. Dattu Dadu Dagade,
Rs. 1,00,000/- with accrued interest.

iii) Claimant no.5 Sou. Kamal Dattu Dagade,
Rs. 1,00,000/- with accrued interest.

d) Liberty granted to the claimants to take out appropriate application, if they so desire, for withdrawal of the further amount and that application will be decided on its own merits.

e) In the meanwhile, 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.

f) The claimant no.1 Smt. Vandana Vishnu Dagade is entitled to withdraw quarterly interest on fixed deposit of Rs.10,00,000/- (Rs. Ten Lacs only) without furnishing any security but subject to the outcome of the First Appeal.

g) The Claimant no.4 Shri. Dattu Dadu Dagade and Claimant no.5 Sou. Kamal Dattu Dagade are entitled to withdraw quarterly interest on fixed deposit of Rs.2,00,000/- (Rs. Two lacs only) each without furnishing any security but subject to the outcome of the First Appeal.

h) Civil Application is disposed of accordingly.

(K.K.TATED, J.)