

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

CIVIL APPLICATION NO.2303/2015
IN
FIRST APPEAL (ST) NO.5564/2015

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

Mr. Rahul Mehta i/b. KMC Legal Venture for the Applicant

CORAM : K. K. TATED, J.

DATE : JULY 10, 2015

P.C.:

1. Mentioned. Not on board. At the request of the learned counsel for the Applicant, taken on board for urgent orders.

2. At the request of the learned counsel for the Applicant notice to Respondent No.6 is dispensed with at their own costs and consequences.

3. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned award dated 18/10/2014 passed by the MACT, Mangaon, Dist. Raigad in MACP No.11/2011 holding that the Respondent-Claimants are entitled to Rs.20,53,894/- with 7.5% pa interest by way of compensation.

4. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application No.30/2015. He submits that if entire awarded amount is recovered by the Respondent-Claimant in Execution Application, nothing will survive in the present proceedings.

5. The learned counsel for the Applicant submits that in the present proceedings, the Tribunal has awarded compensation on higher side. He submits that the deceased was working as Telephone Operation in private company. In spite of that the Tribunal has considered 50% future prospect at the time of awarding the compensation. He submits that the Applicant has good chance of success in the matter. He submits that if stay is not granted irreparable loss, harm and injury will be caused to the Applicant. Hence, in the interest of justice, this Hon'ble Court be pleased to stay the impugned award.

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

7. The learned counsel for the Applicant further submits that the amount of Rs.25,000/- deposited at the time of filing of the appeal be transferred to the Tribunal with accrued interest, if any.

8. It is to be noted that in the present proceedings, in an accident which occurred on 05/09/2010 the claimant lost her husband. On the date of accident, the deceased was 30 years old and was working as a Telephone Operator in a private company i.e. Flowline Services Pvt. Ltd., Wadkhal, Tq. Pen, Dist. Raigad and was getting Rs.8218/- pm salary. Claimant Nos.2 and 3 are minor children of the deceased and claimant Nos.4 and 5 are his parents.

9. Considering these facts, I am of the opinion that the claimant Nos.1, 4 and 5 are entitled to some amount without furnishing any security, subject to outcome of the First Appeal. At the same time, the Respondent-Claimant is entitled to file an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on merits.

10. Considering the submission made by the learned counsel for the Applicant and since the Applicant is ready and willing to deposit the awarded amount in the Tribunal within 4 weeks from today, I am satisfied that the Applicant has made out a case for allowing the Civil Application.

11. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 18/10/2014 passed by the MACT, Mangaon, Dist. Raigad in MACP No.11/2011 is stayed subject to the Applicant depositing the entire awarded amount in the Reference Court within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If awarded amount is not deposited within stipulated time as stated hereinabove, liberty granted to the Respondent-Claimant to proceed with execution as per law.

c. If awarded amount is deposited within stipulated time as stated hereinabove, the claimants are entitled to withdraw amount with accrued interest, as under, without furnishing any security, subject to outcome of the First Appeal.

1. Smt. Madhavi Mahadeo Lokhande
Rs.2,50,000/-
2. Pandurang Amruta Lokhande Rs.50,000/-
3. Sou. Mohini Pandurang Lokhande
Rs.50,000/-

d. The Respondent-Claimant is entitled to file an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on merits.

e. The Tribunal is directed to invest the remaining amount in fixed deposit account of any Nationalized Bank, initially for a period of 1 years, which shall be renewed from time to time, till hearing till further orders.

f. Amount of Rs.25,000/- deposited at the time of filing of the appeal with accrued interest, if any, shall be transferred to the Tribunal.

g. Civil Application stands disposed of accordingly.

JUDGE