

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.1455/2012
IN
FIRST APPEAL NO.666/2012

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. Sandeep S. Jinsiwale for the Applicant
Mr. M. Singh i/b. Ravi Shinde for the Respondent Nos.1 to 4.
Mr. Nikhil Patil i/b. Prabhakar M. Jadhav for Respondent Nos.5 and 6.

CORAM : K. K. TATED, J.

DATE : JULY 15, 2015

P.C.:

1. Heard. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned award dated 05/11/2011 passed by the MACT, Pune in MACP No.949/2007 holding that the Respondent-claimant are entitled to compensation of Rs.18,75,200/- with 8% p.a. interest from the date of preferring the Application till realisation of the amount.

2. The learned counsel for the Applicant submits that as per earlier order passed by this court, they already deposited entire decretal amount in the Tribunal. Statement is accepted.

3. The learned counsel for the Applicant submits that in the present proceedings, the Tribunal has awarded compensation on higher side. He submits that the Tribunal erred in coming to the conclusion that the dependency will be Rs.1,42,317/- p.a. He further submits that the Tribunal has not considered the contributory negligence at the time of awarding the compensation. He further submits that if entire amount is withdrawn by the claimant during pendency of the First Appeal, nothing will survive in the present matter. He further submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award dated 05/11/2011.

4. In the present proceedings, in an accident which occurred on 26/06/2007, Ramesh Ghosalkar, husband of the claimant died. On the date of accident, he was of 45 years and was working as a Police Head Constable and was drawing salary of Rs.12596/- pm.

5. Considering the fact that the claimant is a widow and claimant No.4 is daughter of the deceased, I am of the opinion that they are entitled to withdraw some amount, without furnishing any security. Hence, following order is passed:

- a. The operation and implementation of the impugned award dated 05/11/2011 passed by the MACT, Pune in MACP No.949/2007 is stayed till hearing and final disposal of the First Appeal.
- b. Claimant No.1 Smt. Sunanda Ramesh Ghosalkar and No.4 Ms. Reshma Ramesh Ghosalkar are entitled to withdraw sum of Rs.4,00,000/- and Rs.2,00,000/-, respectively, without furnishing any security, subject to outcome of the First Appeal.
- c. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.
- d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till hearing and final disposal of the appeal.
- e. Civil application stands disposed off accordingly.

JUDGE