

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

CIVIL APPLICATION NO.1742 OF 2015
IN
FIRST APPEAL NO.65 OF 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. Shirshank Ramesh Chavanke for the Applicant
Mr. Atul Gatne for the Respondent.

CORAM : K. K. TATED, J.
DATE : JUNE 10, 2015

P.C.:

1. Heard. This Application is filed by the claimant for withdrawal of the amount deposited by Respondent No.1 National Insurance Co. in the Tribunal.

2. The learned counsel for the Applicant submits that in an accident which occurred on 26/09/2006 the claimant lost their son Dhananjaykumar, who was 19 years at the time of accident. At that time he was earning Rs.4000/- pm. by working in Sai Kripa Transport, Virar.

3. The learned counsel for the Applicant submits that claimants filed claim petition under

section 166 of the Motor Vehicles Act claiming sum of Rs.4 lacs by way of compensation. He submits that the Tribunal erred in coming to the conclusion that net income of Rs.1500/- to be treated as dependency for calculating the compensation. He further submits that though the Tribunal held that the notional income of Rs.3000/- was to be taken into consideration, the Tribunal deducted 50% from the same. He submits that, the amount awarded by the Tribunal is on lower side. He submits that both the Applicants are in financial crisis. Hence, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Insurance Co. He submits that if the present Application is not allowed, irreparable loss and injury will be caused to the Applicant.

4. On the other hand, the learned counsel for the Respondent No.1 Insurance Co. vehemently opposed the Civil Application. He submits that the Tribunal erred in taking the multiplier 18 for calculating the compensation. He submits that the Tribunal ought to have calculated the multiplier on the basis of age of parents of the deceased. He further submits that if entire amount is withdrawn by the Applicant Claimant, nothing will survive in the present proceedings. He further submits that if

this Hon'ble Court allows the Applicant to withdraw the amount, the Applicant should provide solvent security to the satisfaction of the Tribunal.

5. Heard both sides at length. In the present proceedings the Applicant lost their son who was 19 years old and was earning Rs.4000/- pm. at the time of accident. Considering the fact that the Applicant No.1 is earning Rs.2500/- pm. by working as a domestic servant and Applicant No.2, household work, I am of the opinion that the Applicants are entitled to withdraw some amount without furnishing any security.

6. Hence, the following order:

a. Applicant No.1 Ramashankar Sankhataprasad Tiwari and Applicant No.2 Rukmini Ramashankar Tiwari are permitted to withdraw 25% each without furnishing any security.

b. Both the Applicants are permitted to withdraw the remaining 50% amount by furnishing solvent security to the satisfaction of the Tribunal.

c. If amount is not withdrawn within 12 weeks from today, Tribunal is directed to invest the

remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till hearing and final disposal of the appeal.

d. Civil Application stands disposed off accordingly.

JUDGE