

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

CIVIL APPLICATION NO.1644 OF 2015
IN
FIRST APPEAL (ST) NO.12067 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. S. S. Jinsiwale for the Applicant

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders. He submits that the Respondent-Claimant filed Execution Application No.38/2015 for recovery of the awarded amount.

2. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 11/09/2014 passed by the MACT, Nasik in MACP No.813/2007 awarding sum of Rs.8,49,000/- with 7% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Tribunal has awarded compensation at higher side. He submits that Respondent-Claimant failed to prove salary of the deceased. In spite of that the Tribunal awarded the enhanced compensation. He submits that the Applicant has good chance of success in the matter. He submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal till hearing and final disposal of the appeal. He submits that if stay is not granted, irreparable loss and injury will be caused to the Applicant.

4. In the present proceedings , in an accident which occurred on 08/09/2007 the Respondent-Claimant lost her husband Pravin James Ronad (Ronald). On the date of accident the deceased was of 42 years and was working as an Accountant in Sairath Engineering, MIDC Circle earning Rs.6000/- pm. salary. On the basis of these facts, the Respondent-Claimant filed Application under section 166 of the Motor Vehicles Act for compensation of Rs.12 lacs. The Tribunal awarded compensation of Rs.8,49,000/-. Claimant No.1 is a

housewife. I am of the opinion that the claimant is entitled to withdraw some amount without furnishing any security, subject to out come of the First Appeal.

5. Hence, following order.

a. The operation and implementation of the impugned judgment and award dated 11/09/2014 passed by the MACT, Nasik in MACP No.813/2007 is stayed till hearing and final disposal of the First Appeal, subject to the Applicant depositing the entire awarded amount in the Tribunal within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the amount is not deposited within stipulated time as stated herein above, the Respondent-Claimant is entitled to execute the award as per law.

c. If the amount is deposited within stipulated time as stated herein above, the Respondent-Claimant No.1 is entitled to withdraw Rs.3 lacs with accrued interest, without furnishing any security, subject to out come of the First Appeal.

d. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if she so desire, which will be decided on its own merits.

e. 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 which will be renewed from time to time till hearing and final disposal of the appeal.

f. The Respondent-Claimant is entitled to withdraw the interest on the fixed deposit account at quarterly rest, without furnishing any security, subject to out come of the First Appeal.

g. Civil Application stands disposed off accordingly.

JUDGE