

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

**CIVIL APPLICATION NO. 1663 OF 2015
IN
FIRST APPEAL (ST). NO. 12088 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. A.J. Gondwal i/b Sneha Dwivedi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 30/04/2015.**

P.C.:

. 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 and the next date in the said proceeding is 07.05.2015. He submits that if entire amount is recovered by the respondents claimants in execution application, then nothing will survive in the present proceeding. Hence, he has mentioned the matter for urgent order.

3 This application is preferred by the insurance company for stay of operation and implementation

of judgment and award dated 10.06.2014 passed by M.A.C.T. Nashik in M.A.C.P. No. 433 of 2009 awarding sum of Rs.3,59,000/- by way of compensation with 7.5% interest to the respondent claimant.

4 The learned counsel for applicant submits that on the date of accident the deceased was 75 years old. He submits that as per Sarla Verma's case maximum multiplier of 5 is applicable. Instead of that the Tribunal has considered multiplier of 9 on the basis of age of the claimant. Therefore, they have good chance of success in the present proceeding. He 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 Insurance Co. that they are ready and willing to deposit the entire awarded amount within four weeks from today. Statement is accepted.

6 As this order is passed without issuing notice to the respondent claimant, liberty granted to her to prefer application for withdrawal of amount and that application will be decided on its own merits.

7 Respondent claimant lost her husband in the accident which occurred on 06.09.2009. At the time of accident the deceased was doing the business of selling Chocolates and Biscuits and was earning

Rs.4,000/- per month.

8 Considering the facts of the present case as respondent claimant lost her husband who was 75 years old at the time of the accident, I am of the opinion that respondent claimant entitled to withdraw some amount without furnishing any security.

9 Hence, the following order.

a) The operation and implementation of the impugned judgment and award dated 10.06.2014 passed by M.A.C.T. Nashik in M.A.C.P. No. 433 of 2009, is stayed on condition that applicant insurance company to deposit the entire awarded amount including interest in 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, the respondent claimant is entitled to proceed with execution application according to law.

c) If amount is deposited within stipulated time as stated herein above, the respondent claimant Smt. Nirmalabai Vitthal Bhingarkar is entitled to withdraw sum of Rs.1,00,000/- with accrued interest without furnishing any security subject to outcome of First Appeal.

d) Liberty granted to the respondent claimant to prefer an appropriate application for withdrawal of amount, if she so desire, and that application will be decided on its own merits.

e) 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) Civil Application is disposed of accordingly.

(K.K.TATED, J.)