

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

**CIVIL APPLICATION NO. 2442 OF 2015
IN
FIRST APPEAL NO. 804 OF 2015**

United India Insurance Co. Ltd.	... Applicant
V/s.	
Smt. Jyoti Pundalik Aher & Ors.	... Respondents

Mr. Ketan Joshi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 24/07/2015.**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 This application is preferred by Insurance Company for stay of operation and implementation of impugned Award dated 30.12.2014 passed by the Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 1468 of 2011 holding that respondents-claimants are entitled to compensation of Rs.8,20,000/- with 9% interest p.a.

3 The learned Counsel for the applicant submits that respondents-claimants filed execution application no. 74 of 2015. He submits that if entire amount is recovered by the respondents-claimants in execution application, nothing will survive in the present proceeding. Hence, there is an urgency.

4 The learned Counsel for the applicant submits that the Tribunal has awarded compensation on higher side. He further submits that though the Insurance Company raised objection about the violation of terms and condition of insurance policy, the same were not considered properly by the Trial Court. He submits that they have good chance of success in the present matter.

5 The learned Counsel for the insurance company submits that he received instructions from the insurance company that they are ready and willing to deposit entire awarded amount with interest and cost in Tribunal within four weeks from today. The statement is accepted.

6 Considering the submissions made by learned counsel for the applicant, averments made in civil application and as applicants are ready and willing to deposit entire awarded amount in the Tribunal, I am satisfied that applicant has made out the case for allowing the civil application.

7 In the present proceeding, in the accident which occurred on 30.11.2011 Pundalik Aher, the husband of respondent no.1 died. On that date, he was 40 years old. He was working in Press Metal Company and was earning Rs.8,000/- per month. On the basis of earning of the deceased, the claimants filed application under Section 166 of the M.V. Act claiming the compensation. Considering their evidence on record, the Tribunal held that the claimants are entitled to compensation of Rs.8,20,000/- with 9% interest per annum. The claimant nos. 2 and 3 are minors.

8 Considering these facts and as claimant no.1 is household wife and she has to maintain her two minor children, I am of the opinion that claimant no.1 is entitled to withdraw some amount without furnishing any security.

9 Hence, the following order is passed:

a) The operation and implementation of impugned Award dated 30.12.2014 passed by the Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 1468 of 2011 is stayed on condition that applicant to deposit the entire awarded amount in the 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 respondents-claimants can proceed with execution application no. 74 of 2015 on its own merits for recovery of entire awarded amount.

c) If amount is deposited within stipulated time as stated herein above, the claimant no.1 Smt. Jyoti Pundalik Aher is entitled to withdraw Rs.2,50,000/- with accrued interest without furnishing any security.

d) 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.

e) Liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the amount and that application will be decided on its own merits.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)