

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

**CIVIL APPLICATION NO. 2152 OF 2015
IN
FIRST APPEAL (ST.) NO. 14438 OF 2015**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Ms. Deepika Motagi i/b Res Juris for the applicant.

CORAM : K. K. TATED, J.

DATED : 25/06/2015.

PC.:

. Heard learned Counsel for the applicant.

2 This application is preferred by insurance company for stay of operation and implementation of the Judgment and Award dated 11.10.2014 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P No. 480 of 2012 by which the Tribunal held that the respondents claimants are entitled to sum of Rs.19,05,000/- with 7.5% interest by way of compensation.

3 The learned Counsel for the applicant submits that the respondents claimants filed execution application no. 34 of 2015 for recovery of entire compensation. She submits that if entire compensation is recovered by the respondents claimants in execution application, nothing will

survives in the present proceeding. She further submits that they have good chance of success in the present matter.

4 The learned Counsel for the applicant submits that the Tribunal has awarded compensation on higher side. She submits that Tribunal failed to consider the fact that the claimant has not made party to one of the vehicle owner which was involved in the accident. Hence, they are not liable to pay the compensation.

5 The learned Counsel for the applicant further submits that she has received instructions from insurance company that they are ready and willing to deposit the entire awarded amount in the Tribunal within four weeks from today.

6 Considering the submissions made by the learned Counsel for the applicant, averments made in Civil Application and applications are ready and willing to deposit the entire amount in the Tribunal, I am satisfied that applicant has made out the case for the stay.

7 In the accident, which occurred on 28.12.2011, the claimant no.1 lost her husband Nitin Gajarmal, who was 34 years old. At that time, he was earning near about Rs. 200/- per day. Because

of death of Nitin in the said accident, the claimant filed application under Section 166 of M.V. Act for compensation of Rs.14,30,000/-. Considering the evidence on record, the Tribunal held that respondents claimants are entitled sum of Rs.19,05,000/- by way of compensation with interest @ 7.5%.

8 The claimant no.1 is widow and claimant nos. 2,3 and 4 are minor children. Claimant no.2 is of 5 years old, claimant no.3 is of 3 years old and claimant no.4 is of 2 years old. Considering these facts, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security.

9 Hence, the following order:

a) The operation and implementation of Judgment and Award dated 11.10.2014 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P No. 480 of 2012, is stayed on condition that the insurance company have 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 are free to proceed with their execution application no. 44 of 2015 for recovery of

awarded amount.

c) If amount is deposited within stipulated time as stated herein above, the claimant no.1 Bharati Nitin Gajarmal is entitled to withdraw Rs.3,00,000/- with accrued interest without furnishing any security but subject to the outcome of the First Appeal.

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) The claimant no.1 Bharati Nitin Gajarmal is also entitled to withdraw quarterly interest on fixed deposit amount without furnishing any security but subject to the outcome of the First Appeal.

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

g) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)