

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

**CIVIL APPLICATION NO. 2104 OF 2015
IN
FIRST APPEAL (ST.) NO. 14473 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. Milind More for the applicant.

**CORAM : K. K. TATED, J.
DATED : 16/06/2015.**

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 Award dated 16.08.2014 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 990 of 2008 awarding sum of Rs. 4,69,000/- with 6% interest p.a. by way of compensation.

3 The learned Counsel for the applicant submits that respondents claimants filed execution application for recovery of entire awarded amount. He submits that if entire amount is recovered by the respondents claimants, nothing will survive in the present proceeding. Hence, he has mentioned the matter for urgent order.

4 The learned Counsel for the applicant submits that the Tribunal erred in coming to the conclusion

that insurance company is liable to pay compensation in the present matter. He submits that the deceased Moshtaq Ahmed Noor Mohammed Siddhique sleeping on footpath near Reti Bunder Chowpaty. At that time, accident occurred. On the date of accident, the deceased was 17 years old and he was not earning anything. He submits that the Tribunal has awarded compensation on higher side. He submits that they have good chance of success in the present proceeding.

5 The learned Counsel for the applicant further submits that he received instructions from the insurance company to make a statement that they are ready and willing to deposit the awarded amount before the Tribunal within four weeks from today. The statement is accepted.

6 In the present proceeding, on the date of accident, the deceased was 17 years old. Considering the age of the deceased, the Tribunal has taken minimum wages for calculating the compensation.

7 Considering the reasons given by the Tribunal in paragraph 9 of the impugned award, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security.

8 Hence, the following order.

a) The operation and implementation of Award dated 16.08.2014 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 990 of 2008, is stayed on condition that

insurance company have to deposit the entire awarded amount before 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 respondent claimant is entitled to execute the award according to law.

c) If amount is deposited within stipulated time as stated herein above, the claimant no.1 Smt. Jaheerun Nissa Noor Mohammed Siddique is entitled to withdraw 25% amount 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 further orders.

e) 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.

f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)