

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

**CIVIL APPLICATION NO. 2278 OF 2015
IN
FIRST APPEAL (ST.) NO. 16139 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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Ms. Bhakti Barve for the applicant.

**CORAM : K. K. TATED, J.
DATED : 08/07/2015.**

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 the Award dated 29.12.2014 passed by the Motor Accident Claims Tribunal, Nashik in M.A.C.P No. 37 of 1988 awarding sum of Rs.11,20,000/- with 7.5% interest by way of compensation.

3 The learned Counsel for the applicant submits that if entire amount is recovered by the respondent claimants in execution application, nothing survives in the present proceeding. Hence, there is an urgency in the present matter.

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

that respondents-claimants are entitled to Rs.11,20,000/- by way of compensation. She submits that respondents claimants have not placed on record any income proof to show the income of the deceased neither examined any Chartered Accountant to that effect. She submits that the Tribunal has awarded the compensation on higher side. She submits that they have good chance of success in the present proceeding.

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

6 In the present proceeding, in accident which occurred on 15.08.1987 the claimant no.1 lost her husband. On the date of accident, the deceased was 40 years old and he was doing business. Hence, the claimants filed application under Section 166 of M.V. Act claiming compensation of Rs.20,00,000/-.

7 Considering the facts and circumstances of the present case, I am of the opinion that respondent no.1 original claimant no.1 is entitled to withdraw some amount without furnishing any security.

8 Hence, the following order:

a) The operation and implementation of impugned Award dated 29.12.2014 passed by the

Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 37 of 1988, is stayed on condition that applicant to deposit 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 entitled to execute the award according to law.

c) If amount is deposited within stipulated time as stated herein above, the respondent claimant no.1 Arti Sudamo Khetwani is entitled to withdraw 25% amount without furnishing any security but subject to outcome of the First Appeal.

d) 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.

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 stands disposed of accordingly.

(K.K.TATED, J.)