

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

**CIVIL APPLICATION NO. 2489 OF 2015
IN
FIRST APPEAL (ST.) NO. 16987 OF 2015**

National Insurance Co. Ltd.	... Appellant
V/s.	
Mr. Ashok Rajaram Bambulkar & Ors.	... Respondents

Mr. Amol Gatne for the applicant.

**CORAM : K. K. TATED, J.
DATED : 29/07/2015.**

P.C.:

. 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 impugned award dated 02.12.2014 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 1036 of 2013 holding that respondents-claimants are entitled to compensation to the tune of Rs.8,87,000/- with 7.5% interest per annum from the date of filing of application till actual realisation.

3 The learned Counsel for the applicant submits that the respondents-claimants filed execution application no. 129 of 2015 in which the next date of hearing is 04.08.2015. Hence, there is an urgency.

4 The learned Counsel for the applicant submits that in the present proceeding, the Tribunal erred in coming to the conclusion that the appellant Insurance Company are liable to pay compensation though, the driver of the offending vehicle was not made party in claim application. He submits that in the present proceeding, the deceased was bachelor and therefore, the Tribunal ought to have deducted 50% towards personal expenses instead of 1/3rd. He further submits that Tribunal erred in coming to the conclusion that for the awarding compensation the multiplier should be 18 on the basis of the age of the deceased. He submits that instead of taking multiplier on the basis of age of the deceased, it should be on the basis of age of the parents. Hence, 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 in Tribunal within four weeks from today. The statement is accepted.

6 In the present proceeding, the accident which occurred on 18.05.2013, the claimants lost their son Milind. On that date, he was 25 years old and was working as Office Assistant with Royal Arc Electrodes Ltd., Vasai. His monthly salary was Rs.10,000/- per month. On the basis of these facts, the respondents-claimants filed application under Section 166 of M.V. Act claiming compensation of Rs.20,00,000/-.

7 considering the facts that the claimants are parents of the

deceased and as there is delay on the part of the Insurance Company to prefer First Appeal, I am of the opinion that the respondents-claimants can withdraw some amount without furnishing any security.

8 Hence, the following order.

a) The operation and implementation of impugned Award dated 02.12.2014 passed by the Motor Accident Claims Tribunal, Mumbai in Application No. 1036 of 2013, is stayed in favour of Insurance Company on condition that applicant Insurance Company to deposit entire awarded amount with interest 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 their execution application no. 129 of 2015 for recovery of awarded amount according to law.

c) If amount is deposited within stipulated time as stated herein above, the respondent claimant no.1 Shri. Ashok Rajaram Bambulkar and claimant no.2. Mrs. Dhanashree Ashok Bambulkar both of them are entitled to withdraw Rs.1,00,000/- each alongwith accrued interest without furnishing any security but subject to the outcome of the First Appeal.

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

e) The Tribunal is directed to invest the amount in Fixed deposits of any Nationalised Bank, initially for the period of one and half year and same to be continued till hearing and final disposal of the First Appeal.

f) The Registry of this Court is directed to transfer the amount of Rs.25,000/- with interest if any, which was deposited by the applicant at the time of filing of First Appeal, to the Tribunal in the account of Application no. 1036 of 2013.

g) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)