

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

CIVIL APPLICATION NO.2612/2015
IN
FIRST APPEAL NO.881/2015

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. Nikhil Mehta i/b. KMC Legal Venture for the Applicant

CORAM : K. K. TATED, J.
DATE : AUGUST 5, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned award dated 10/03/2015 passed by the MACT, Pune in MACP No.525/2012 holding that the claimants are entitled to compensation of Rs.10,98,000/- with 7.5% p.a. interest from the date of Application till realization of the entire amount.

3. The learned counsel for the Applicant submits that the Tribunal erred in coming to the conclusion that the Respondent-Claimant are entitled to award amount. He submits that the Tribunal has awarded compensation on higher side. He submits that though the Application filed by the Respondent-Claimant under section 163A of the Motor Vehicles Act the Trial Court has not considered the fact that the deceased had hired a tractor for digging a well in his own field. Hence, the Insurance Co. is not liable to pay compensation.

4. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application No.18/2015. Hence, there is urgency in the matter. He submits that he received instructions from the Insurance Co. that they are ready and willing to deposit the entire award amount in the Tribunal within 4 weeks from today. Statement is accepted.

5. In the present proceedings in an accident which is occurred on 11/04/2011 the Applicant lost her husband Hanumant Tambe. On the date of accident, he was 44 years old. He was doing agricultural operations and business of crane

service in the name and style Sagar Crane Services. Considering the fact that the claimant No.1 is housewife and she has to maintain her three minor children as well as in-laws who are senior citizen, I am of the opinion that the claimants are entitled to withdraw some amount at present.

6. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 10/03/2015 passed by the MACT, Pune in MACP No.525/2012 is stayed subject to the Applicant depositing the entire awarded amount in the Tribunal within 4 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If amount is not deposited within stipulated time as stated hereinabove the Respondent-Claimants are entitled to execute the award as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimants are entitled to withdraw the award amount with interest without furnishing any security, as under:

- i. Claimant No.1 Smt. Mangal Hanuman @ Hanumant Tambe – Rs. 1 lac.
 - ii. Claimant No.2 Sou. Tejashree Sandeep Dherange, Claimant No.6 Smt. Indubai Dnyaneshwar Tambe and Claimant No.7 Shri Dnyaneshwar Bhaguji Tambe Rs. 50,000/- each.
- d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one and half year which will be renewed from time to time till further orders.
- e. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the further amount, if they so desire, which will be decided on its own merits.
- f. Amount of Rs.25000/- deposited by the Appellant towards statutory deposit at the time of filing the appeal shall be transferred to the Tribunal. g. Civil Application stands disposed off accordingly.

JUDGE