

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

CIVIL APPLICATION NO.2458/2013
IN
FIRST APPEAL NO.992/2013

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. V. A. Shastri for the Applicant
Mr. Rakesh K. Singh for the Respondent

CORAM : K. K. TATED, J.
DATE : JULY 15, 2015

P.C.:

1. Heard. This Application is filed by the claimant for withdrawal of the amount deposited by the Appellant Insurance Co.

2. The learned counsel for the Applicant submits that in an accident which occurred on 13/06/2008 the claimant No.1 lost her husband Abhay Vilas Bagade. On the date of accident, he was 32 years old and was earning Rs.10,800/- pm. He further submits that on the basis of income of the deceased the claimant filed Application under section 166 of the Motor Vehicles Act for grant of compensation of Rs.25 lacs. The Tribunal, considering the evidence on record, held

dependency of Rs.7,200/- and considering the multiplier of 16, awarded Rs.13,82,000/- by way of compensation along with 9% p.a. interest. The learned counsel for the Applicant submits that the claimant No.1 is widow and she is housewife. He further submits that claimant no.2 is minor who is taking education and claimant Nos.3 and 4, parents of the deceased are senior citizen. He further submits that it is very difficult for the claimant No.1 to maintain her minor children as she has no source of income. Therefore, the claimant No.1 is in need of financial assistance. Hence, she has preferred the present Civil Application. He submits that if Civil Application is not allowed, the claimant will suffer irreparable loss, harm and injury.

3. On the other hand, the learned counsel for the Appellant Insurance Co. opposed the Civil Application. He submits that if claimants are allowed to withdraw the amount without any security and in case the Appellant succeeds in the First Appeal, it would be very difficult for them to recover the said amount. He submits that, if this court inclined to allow the Applicants to withdraw the amount, then the Applicants be directed to furnish solvent security to the satisfaction of the Trial Court.

4. Heard both sides at length. In the present proceedings in an accident which occurred on 13/06/2008 the claimant No.1 lost her husband. On the date of accident, he was 32 years old and was earning Rs.10800/- pm. The claimant No.1 is widow and she is housewife, claimant no.2 is minor who is taking education and claimant Nos.3 and 4, parents of the deceased are senior citizen. Considering these facts, I am of the opinion that the Applicant claimants are entitled to withdraw some amount without furnishing any security.

5. Hence, following order is passed:

a. The Applicants are entitled to withdraw the amount as under with accrued interest, without furnishing any security, subject to outcome of the First Appeal.

i) Claimant No.1 - Surekha Abhay Bagade – Rs.1,50,000/-

ii) Claimant No.3 - Vilas Vinayak Bagade – Rs.1,50,000/-

iii) Claimant No.4 - Anupama Vilas Bagade – Rs.1,50,000/-

b. Claimant Nos.1, 3 and 4 can further withdraw sum of Rs.1,50,000/- each with accrued

interest, by furnishing solvent security, subject to the satisfaction of the Trial Court.

c. At the time of accepting the solvent security, the Trial Court shall issue notice to the Insurance Co. and hear them.

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 year which will be renewed from time to time till hearing and final disposal of the appeal.

e. Civil Application stands disposed off accordingly.

JUDGE