

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

CIVIL APPLICATION NO.2509/2015
IN
FIRST APPEAL NO.840/2015

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. Deepika Motagi with Priti Pandey i/b.
Respondent Juris for the Applicant

CORAM : K. K. TATED, J.

DATE : JULY 31, 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 25/03/2015 passed by the MACT, Pune in Application No.224/2013 awarding sum of Rs.19,00,000/- with 9% pa interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed

Execution Application for recovery of the entire award amount. She submits that if entire amount is recovered by the Respondent-Claimant, nothing will survive in the present proceedings.

4. The learned counsel for the Applicant submits that the Tribunal has awarded compensation on higher side. She further submits that the Tribunal has not considered contributory negligence at the time of passing the impugned award. She submits that the Applicant has good chance of success in the matter. If stay is not granted irreparable loss and injury will be caused to the Applicant.

5. The learned counsel for the Applicant submits that she received instructions from the Insurance Co. that they are ready and willing to deposit the entire award amount, along with cost, interest, if any, in the Tribunal within 4 weeks from today. Statement is accepted.

6. The learned counsel for the Applicant submits that the amount of Rs.25000/- deposited by the Applicant at the time of filing the appeal be transferred to the Tribunal.

7. In the present proceedings in an accident which occurred on 05/10/2010 the claimant No.1 lost her husband who was working with the Irrigation Department of the State of Maharashtra. He was a permanent employee and drawing salary of Rs.12591/- pm. On the date of accident, he was 49 years old.

8. Considering these facts, as the Applicant has to maintain her two children, I am of the opinion that the claimants are entitled to withdraw some amount without furnishing any security, subject to outcome of the First Appeal.

9. As this order is being passed without issuing any notice to the Respondent, liberty can be granted to the Respondent - claimant to file an appropriate Application for withdrawal of the amount, if they so desire, which will be decided on its own merits.

10. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 25/03/2015 passed by the MACT, Pune in Application No.224/2013 is stayed, till hearing and final disposal of the appeal, subject to the Applicant depositing the entire award

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 proceed with Execution Application as per law.

c. If amount is deposited within stipulated time as stated herein above, Respondent-Claimant No.1 Smt. Mangala Balu Bhalerav is entitled to Rs.3,00,000/-, Nos.2 Santosh Balu Bhalerav and and No.3 Kiran Balu Bhalerav are entitled to withdraw the sum of Rs.1,50,000/- each, with accrued interest without furnishing any security, subject to outcome of the First Appeal.

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 Applicant towards statutory deposit at the time of filing the appeal shall be transferred to the Tribunal.

g. Civil Application stands disposed off accordingly.

JUDGE