

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.
CIVIL APPLICATION NO.1334 OF 2015
IN
FIRST APPEAL (ST) NO.16544 OF 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. S. G. Thorat for the Applicant
Mr. Rahul Mehta i/b. KMC Legal for the Respondent.

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Heard. This Application is preferred by the claimant for withdrawal of the amount deposited by the Appellant Insurance Co. in the office of the Commissioner for Workmen's Compensation and Judge, Labour Court, Sangli.

2. The learned counsel for the Applicant submits that in an accident which occurred on 03/03/2011 the Applicant No.1 lost her husband Asslam who was working as a driver of offending vehicle i.e. tanker bearing No.Mh-10/Z-1269. On the date of accident, the deceased was of 37 years and was earning monthly wages of Rs.5000/- and Rs.3000/- pm. towards bhatta. He submits that on the basis of these facts, the Applicant claimant filed an Application for compensation under section 22

of the Workmen's Compensation Act for Rs.9,18,560/-. He submits that on the basis of the documents, the Tribunal awarded sum of Rs.8,68,560/- with 12% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Applicant No.1 is house-wife. The Applicant No.2 to 4 are taking education and Applicant No.5 is mother of deceased who is a senior citizen. He further submits that the Applicant has to bear their day-to-day expenses and education expenses of Applicant Nos.2 to 4. He submits that in the interest of justice, this Hon'ble Court be pleased to allow the Applicants to withdraw the amount deposited by the Appellant Insurance Co. He submits that if Civil Application is not allowed irreparable loss, harm and injury will be caused to the Applicant.

4. On the other hand the learned counsel for the Appellant Insurance Co. vehemently opposed the Civil Application. He submits that the Tribunal erred in coming to the conclusion that on the date of accident, the offending vehicle was duly insured with the Insurance Co. He submits that the Tribunal erred in coming to the conclusion that the Applicant claimants are entitled to compensation of

Rs.8,68,560/- which is on higher side. He submits that the Appellant Insurance Co. has good chance of success in the matter. If the entire amount is allowed to be withdrawn by the claimants, nothing will survive in the matter. If this Hon'ble Court pleases to allow the Applicant to withdraw the amount, in that case, the Applicant claimant must furnish solvent security to the satisfaction of the Tribunal.

5. Heard both sides at length. There is no dispute that in an accident which occurred on 03/03/2011 the Applicant No.1 lost her husband who was working as driver and earning Rs.8000/- pm. The Applicant No.2 to 4 are taking education and Applicant No.5 is mother of the deceased who is a senior citizen.

6. Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicants have made out a case for allowing the Applicants to withdraw some amount without furnishing any security, subject to outcome of the First Appeal.

7. Hence, the following order:

a) Civil Application is partly allowed.

b) The Applicant Nos.(1) – Smt. Sahida Asslam @ Chandsab Nadaf (2) Kumari Asama Asslam @ Chandsab Nadaf and (3) Kumari Ayesha Asslam @ Chandsab Nadaf are entitled to withdraw 10% each of the awarded amount with accrued interest without furnishing any security subject to outcome of the First Appeal.

c) The Tribunal is directed to invest the 10% of the awarded amount each in the name of Applicant Nos.(1) – Smt. Sahida Asslam @ Chandsab Nadaf (2) Kumari Asama Asslam @ Chandsab Nadaf and (5) Smt. Ajubi Ahmad Nadaf in a fixed deposit account of any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till further orders.

d) The Tribunal is directed to invest the 20% of the awarded amount each in the name of Applicant Nos. (3) Kumari Ayesha Asslam @ Chandsab Nadaf and (4) Kumar Ramjan Asslam @ Chandsab Nadaf in a fixed deposit account of any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till further orders.

e) The Applicant no.1 is entitled to withdraw accrued interest on the fixed deposits of Applicant Nos.3 and 4 without furnishing any security subject to outcome of the First Appeal.

f) liberty granted to the claimants to prefer an appropriate Application for withdrawal of further compensation amount, if they so desire, which will be decided on its own merits.

g) Civil application stands disposed off accordingly.

JUDGE