

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

**CIVIL APPLICATION NO. 3331 OF 2014
IN
FIRST APPEAL NO. 1172 OF 2014**

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. Rahul Mehta i/b KMC Legal Venture for the applicant.

Mr. H. E. Palve for the respondents.

CORAM : K. K. TATED, J.

DATED : 14/08/2015.

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by Insurance Company for stay of operation and implementation of the Award dated 22.05.2014 passed by the Motor Accident Claims Tribunal, Kalyan in M.A.C.P No. 177 of 2007.

3 The learned Counsel for the applicant submits that the Tribunal has awarded compensation on the higher side. He submits that admittedly the respondents-claimants have not placed on record any documentary evidence to show that the deceased was holding any licence to run grocery shop. He submits that not a single document placed on record by the claimants to show that the

deceased was earning Rs.10,000/- to Rs.12,000/- per month. Inspite of that, the Tribunal has considered the income of the deceased Rs.6,000/- per month. He submits that the Tribunal erred in coming to the conclusion that 15% of the income can be added towards the future prospects. He submits that if entire awarded amount is withdrawn by the respondents-claimants, nothing will survive in the present proceeding. He submits that they have good chance of success in the present matter.

4 The learned Counsel for the applicant submits that they have already deposited the entire awarded amount in the Tribunal as per the earlier order passed by this Court.

5 On the other hand, the learned Counsel for the respondents-claimants vehemently opposed the present Civil Application. He submits that respondents-claimants have preferred Civil Application no. 1561 of 2015 for withdrawal of awarded amount.

6 Considering the submissions made by learned counsel for the applicant and averments made in civil application, I am satisfied that applicant has made out the case for allowing the civil application.

7 Hence, the following order is passed:

a) The operation and implementation of impugned Award dated 22.05.2014 passed by the

Motor Accident Claims Tribunal, Kalyan in M.A.C.P. No. 177 of 2007, is stayed till the hearing and final disposal of the First Appeal.

b) The Tribunal is directed to invest the remaining 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.

c) Civil Application no. 1561 of 2015 preferred by the respondents-claimants shall be heard on its own merits.

d) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)