

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

**CIVIL APPLICATION NO. 1965 OF 2014
IN
FIRST APPEAL NO. 1860 OF 2010**

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. T. J. Mendon for the applicant.

Mr. D. R. Mahadik for the respondent.

CORAM : K. K. TATED, J.

DATED : 08/07/2015.

PC.:

. Heard learned Counsel for the parties.

2 This application is preferred by claimants for withdrawal of amount deposited by the appellant insurance company.

3 The learned Counsel for the applicant submits that in the accidence, which occurred on 06.03.2005 the applicant no.1 lost her husband. On the date of accident, he was 35 years old and was working as painter. He submits that applicants filed application under Section 163A of M. V. Act for compensation before the Tribunal. He submits that the Trial Court awarded sum of Rs.1,70,000/- with 7% interest. He submits that the applicant nos. 2 to 5 are minors. The Applicant no.1 is the household wife and it is

very difficult for her to maintain her minor children as well as mother-in-law. Hence, she requires some amount. He further submits that in the interest of justice, this Hon'ble Court be pleased to allow the applicants to withdraw the amount deposited by the insurance company.

4 On the other hand, the learned Counsel for the insurance company vehemently opposed the present Civil Application. He submits that on the date of accident, the driver of offending vehicle was not holding valid licence. To that effect, they have examined witness Narendra Patil. He submits that these facts are not considered by the Tribunal at the time of awarding compensation. He further submits that they have good chance of success in the First Appeal. He submits that if entire awarded amount is withdrawn by the claimants without furnishing any security, it will be very difficult for them to recover the same, if they succeed in the present matter. He further submits that if this Hon'ble Court allowed the applicants to withdraw the awarded amount, in that case the applicants may be directed to furnish bank guarantee.

5 I heard both the sides at length. It is to be noted that in the present proceeding the accident which occurred on 06.03.2005, the applicant no.1 lost her husband. On that date, he was 35 years old

and was working as painter. The application filed by the claimants under Section 163A of M.V. Act. At present the applicant nos. 2 to 5 are minors. The applicant no.1 has to maintain those minor children as well as mother-in-law.

6 Considering the submissions made by the learned Counsel for the applicants and averments made in Civil Application, I am satisfied that applicants have made out case for allowing them to withdraw some amount.

7 Hence, the following order:

a) The Applicant No.1 Smt. Anjani Bharat Patil is entitled to withdraw sum of Rs.50,000/- with accrued interest without furnishing any security.

b) The Applicant No.6 Smt. Seetabai Poshha Patil is entitled to withdraw sum of Rs.20,000/- with accrued interest without furnishing any security.

c) The Registry of this Court is directed to transfer the amount of Rs.25,000/- with interest if any, which was deposited by the insurance company at the time of filing of First Appeal, to the Tribunal in the account of M.A.C.P. No. 469 of 2005.

(K.K.TATED, J.)