

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

CIVIL APPLICATION NO.1200 OF 2015  
IN  
FIRST APPEAL NO.345 OF 2015

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| 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. P. V. Dube for the Applicant

**CORAM : K. K. TATED, J.**  
**DATE : MARCH 19, 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. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application for recovery of the awarded amount. He submits that if entire amount is recovered by the Respondent-Claimant in Execution Application, nothing will survive in the present proceedings. Hence, there is urgency.

3. This Application is preferred by the original Respondent for stay of the operation and

implementation of the judgment and award dated 02/05/2014 passed by the MACT Pune in MACP No.394/2007 by which the Tribunal held that the Respondent-Claimant are entitled to Rs.19,38,000/- with 9% p.a. interest by way of compensation. The learned counsel for the Applicant submits that the Tribunal failed to consider the fact that the deceased was unemployed and therefore, there is no question of considering her income to the tune of Rs.11,500/- p.m. He further submits that the Tribunal has awarded has compensation at higher side. He submits that, they have good chance of success in the present matter.

4. On the basis of the above mentioned submission, the learned counsel for the Applicant submits that this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award dated 02/05/2014 passed by the Tribunal till hearing and final disposal of the appeal.

5. In the present proceedings, in an accident which occurred on 20/01/2007 the claimant's daughter Nivedita expired. The deceased had completed her graduation in computer science. She

was pursuing post graduation studies in Masters of Computer Science at Baramati and was in second year. After completion of Bachelor of Computer Science, deceased was intending to join service. On the basis of these facts, the claimants filed claim petition under section 166 of the Motor Vehicles Act for claiming compensation.

6. Considering the facts of present case, I am of the view that the Respondent-Claimant is entitled to withdraw some amount at present without furnishing any security. Hence, the following order:

a) The operation and implementation of the impugned judgment and award dated 02/05/2014 passed by the MACT Pune in MACP No.394/2007 is stayed on condition that the Applicant to deposit the entire decretal amount including interest and cost in the Tribunal within four 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-Claimant is entitled to execute the award according to law.

c) If the amount is deposited within stipulated time as stated hereinabove the claimant No.1 Avinath Thorat and claimant No.2 Mrs. Prafullata A. Thorat are entitled to withdraw Rs.2,50,000/- with accrued interest without furnishing any security.

- d) Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on its own merits.
- e) 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 final disposal of the appeal.
- f) Civil Application stands disposed off accordingly.

**JUDGE**