

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

**CIVIL APPLICATION NO. 1262 OF 2015
IN
FIRST APPEAL NO. 218 OF 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. Varsha Chavan for the applicant.

**CORAM : K. K. TATED, J.
DATED : 26/03/2015.**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 Heard learned Counsel for the parties.

3 This application is preferred by insurance company for stay of operation and implementation of Award dated 30.06.2014 passed by the M.A.C.T. Mumbai in Claim Application no. 93 of 2007 awarding compensation of Rs.10,20,000/- with 6% interest to the respondents/claimants.

4 The learned Counsel for the applicant submits that respondents claimants filed execution

application no. 294 of 2014 for recovery of entire awarded amount. She submits that if entire amount is recovered by the respondents claimants in execution application, nothing will survive in the present proceeding.

5 The learned Counsel for the applicant submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned Judgment and Award dated 30.06.2014 till the hearing and final disposal of the present proceeding. She submits that if stay is not granted, irreparable loss & injury will be caused to them.

6 The learned Counsel for the applicant submits that she received instructions from insurance company that they are ready and willing to deposit the entire decretal amount in the Tribunal within four weeks from today. Statement is accepted.

7 It is to be noted that respondents claimants lost her 18 years daughter who was doing first year of M.B.B.S.

8 Considering the reasons disclosed by the Tribunal, I am of the opinion that at present respondents claimants are entitled to withdraw 20%

amount each without furnishing any security.

9 Hence, the following order.

a) The operation and implementation of Judgment and Award dated 30.06.2014 passed by the M.A.C.T. Mumbai in Claim Application no. 93 of 2007, is stayed on condition that applicant to deposit the entire decretal amount including interest and costs, if any, in the Tribunal within four weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

b) If amount is not deposited within stipulated time as stated herein above, respondents claimants are entitled to proceed with their execution application no. 294 of 2014 for recovery of amount.

c) If amount is deposited within stipulated time as stated herein above, claimant no.1 Vishwanath Subramaniya Shatri and claimant no.2 Smita Vishwanath Shatri both of them are entitled to withdraw 20% amount each without furnishing security.

d) Tribunal is directed to invest remaining amount in fixed deposits of any nationalised bank initially for the period of one year and same to be continued till the hearing and final disposal of First Appeal.

e) Liberty granted to the respondents-claimants to prefer appropriate application, if they so desire, for withdrawal of further amount and that application will be decided on its own merits.

f) Registry is directed to transfer the amount of Rs.25,000/- which was deposited by the applicant at the time of filing of First Appeal to the Tribunal in the account of Claim Application no. 93 of 2007.

g) Civil Application is disposed of accordingly.

(K.K.TATED, J.)