

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

**CIVIL APPLICATION NO. 2204 OF 2012
IN
FIRST APPEAL (ST) NO. 32569 OF 2011**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. S. M. Dange for the applicant.
Mrs. Mamta Dave for the respondent nos. 1 to 3.
None for respondent no.4.

**CORAM : K. K. TATED, J.
DATED : 15/04/2015**

RC.:

. Heard learned Counsel for the applicant and learned counsel for the respondent nos. 1 to 3.

2 Though respondent no.4 is duly serve, no one appeared on behalf of him when the matter called out.

3 This Application is preferred by the insurance company for stay of operation and implementation of impugned Judgment and Award dated 14.06.2011 passed by M.A.C.T., Mumbai in Application No. 1381 of 2002 holding that respondents claimants are entitled to sum of Rs.9,60,000/- with 7.5 % interest by way of compensation under Section 166 of M.V. Act.

4 The learned counsel for the applicant submits

that in the present proceeding the Tribunal erred in coming to the conclusion that respondents claimants are entitled to sum of Rs.9,60,000/- by way of compensation. He submits that the Tribunal has awarded compensation on higher side. He submits that they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be pleased to stay operation and implementation of impugned judgment and award dated 14.06.2011 till the hearing and final disposal of First Appeal. He submits that if stay is not granted irreparable loss and injury will be caused to them.

5 The learned counsel for the respondent nos. 1 to 3 vehemently opposed the present Civil Application. She submits that in the accident which occurred on 23.04.2002 claimant no.1 lost her husband. She submits that on the date of accident, the deceased was 42 years old and he was serving in 'A Engineering Works' at Andheri (E), and drawing sum of Rs.8,000/- by way of salary per month. She submits that applicant nos. 2 and 3 are minors. It is very difficult for her to maintain herself as well as minors. Both minors are taking education. Hence, this Hon'ble Court be pleased to allow the applicant to withdraw the amount deposited by the insurance company.

6 Considering the submissions made by the learned counsel for the Applicant, averments made in the Application and as entire amount is deposited by the insurance company in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7 It is to be noted that applicant being a widow, she has to maintain her two minor children i.e. claimant nos. 2 and 3. Considering this fact and reasons given by the Tribunal, I am satisfied that at present claimant no.1 Mrs. Agnes Rolland Soans is entitled to withdraw her share subject to the outcome of the First Appeal.

8 Hence, the following order:

i) The operation and implementation of impugned judgment and award dated dated 14.06.2011 passed by M.A.C.T., Mumbai in Application No. 1381 of 2002 is stayed till the hearing and final disposal of the above mentioned First Appeal.

ii) Claimant no.1 Mrs. Agnes Rolland Soans is entitled to withdraw her share subject to the outcome of the First Appeal.

iii) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of five

years and same to be continued till hearing and final disposal of the First Appeal.

iv) Claimant no.1 Mrs. Agnes Rolland Soans is entitled to withdraw quarterly interest on the said fixed deposits of amount for the benefit of minors.

v) Civil Application is disposed of accordingly.

(K.K.TATED, J.)