

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

**CIVIL APPLICATION NO. 457 OF 2015  
IN  
FIRST APPEAL NO. 171 OF 2015**

|                                 |                 |
|---------------------------------|-----------------|
| New India Assurance Co. Ltd.    | ... Applicant.  |
| V/s.                            |                 |
| Smt. Anita Rajendra Aher & Ors. | ... Respondents |

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Mr. D.S. Joshi for the appellant.  
Mr. M.A. Utgikar for respondent nos. 1 to 5.

**CORAM : K. K. TATED, J.  
DATED : 05/02/2015.**

**P.C.:**

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

2 Advocate Mr. Utgikar states that he has already filed his vakalatnama on behalf of respondent nos. 1 to 5.

3 The learned Counsel for the applicant submits that the respondent claimants filed execution application for recovery of the entire awarded amount before the Tribunal. He submits that if entire amount is recovered in execution application, nothing will survive in the present proceeding. Hence, there is urgency.

4 This application is preferred by Insurance Company for stay of operation and implementation of the Judgment and Award dated

19.07.2014 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 759 of 2012, holding that the respondents-claimants are entitled for total compensation of Rs.29,16,000/- with 8 % interest from the date of accident till its realization.

5 The learned Counsel for the applicants submits that the Tribunal failed to appreciate about negligence. He submits that the deceased Rajendra was also negligent in the said accident. He submits that the respondents-claimants failed to show the exact income of the deceased. He further submits that the Tribunal has considered the total income of the deceased on higher side. He submits that applicants have good chance of success in the present proceedings. He submits that if stay is not granted, irreparable loss and injury will be caused to the applicant. He submits that in the interest of justice, till the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of Award dated 19.07.2014.

6 The learned Counsel for the applicants submits that he received instructions from the 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 Liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the further amount and that application will be decided on its own merits.

8 Considering this fact and reasons given by the Tribunal, I am of the opinion that claimants are entitled to withdraw some amount

without furnishing any security.

9 Hence, the following order.

a) The operation and implementation of Judgment and Award dated 19.07.2014 passed by the Motor Accident Claims Tribunal, Pune in M.A.C.P. No. 759 of 2012, is stayed till hearing and final disposal of the First Appeal, on condition that applicant to deposit entire decretal amount including interest, if any, in the Tribunal within six weeks from today, failing which civil application shall stand dismissed without referring back to the court .

b) If amount is deposited within stipulated time as stated herein above, the respondent claimant no.1 Smt. Anita Rajendra Aher, is entitled to withdraw Rs.3,00,000/- with accrued interest without furnishing any security.

c) The Respondents-claimants nos. 4 and 5 Shri. Maruti Vadju Aher and Smt. Parvati Maruti Aher are entitled to withdraw sum of Rs.75,000/- each with interest without furnishing any security.

d) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till the hearing & final disposal of the First Appeal.

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

f) Civil Application is disposed of accordingly.

**(K.K.TATED, J.)**