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

CIVIL APPLICATION NO. 207 OF 2015
IN
FIRST APPEAL NO. 2431 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. Sudam Kale for the applicant.
Mr. H. G. Misar for the respondent no.1.
Mr. Amey Deshpande for respondent no.2.

CORAM : K. K. TATED, J.
DATED : 18/04/2015.

P.C.:

. Heard learned Counsel for the parties.

2 This application is preferred claimant for withdrawal of amount deposited by appellant insurance company pursuant to the order passed by this court.

3 The learned Counsel for the applicant claimant submits that in accident which occurred on 13.06.2006, the applicant no.1 lost her husband. On the date of accident, the deceased was 27 years old and that time, he was earing Rs.6,000/- per month. He submits that claimant filed application under Section 166 of M.V. Act claiming total compensation of Rs.6,00,000/-.

4 The learned Counsel for the applicant submits

that applicant has to maintain her minor children as well as father-in-law and mother-in-law, who are staying with her. He submits that it is very difficult for applicant to maintain her day-to-day expenses. Hence, applicant may be permitted to withdraw the amount deposited by the insurance company. He further submits that if present Civil Application is not allowed, irreparable loss and injury will be caused to the applicant.

5 On the other hand, the learned Counsel for the insurance company vehemently opposed the Civil Application. He submits that the Tribunal has erred in coming to the conclusion that insurance company is liable to pay compensation. He submits that admittedly, the Tribunal held that the driver of offending vehicle was not holding valid licence on the date of accident. Inspite of that, the Tribunal directed insurance company to pay compensation. He submits that insurance company has good chance of success in the present matter. He submits that if the applicant is allowed to withdraw the amount without furnishing any security and if they succeed in the present matter, it will be very difficult for them to recover the entire amount from the applicant. Hence, there is no substance in the Civil Application and same to be dismissed with costs.

6 I heard both the sides at length. In the

present proceeding, the applicant no.1 lost her husband in the accident which occurred on 13.06.2006. Applicant has to maintain her minor children as well as father-in-law and mother-in-law.

7 Considering, the reasons disclosed by applicant in Civil Application, I am satisfied that applicant has made out case for allowing to withdraw some amount at present.

8 The learned Counsel for the applicant pointed out that though this Court by order dated 13.06.2011 (Coram: A.S.Oka, J) allowed applicant to withdraw sum of Rs.50,000/- without furnishing any security, but the same was not withdrawn by them till today.

9 Considering this fact, the following order is passed:

a) Applicant No.1 Smt. Sunita Rajendra Pawar is permitted to withdraw 10% of amount without furnishing any security.

b) Applicant No.5 Sou. Maya Sahebrao Pawar is entitled to withdraw 10% of amount without furnishing any security but subject to outcome of First Appeal.

c) 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 hearing and final disposal of the First Appeal.

d) Applicant No.1 Smt. Sunita Rajendra Pawar is entitled to withdraw quarterly interest on the fixed deposit amount for the benefit of minor children without furnishing any security but subject to outcome of First Appeal.

e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)