

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

**CIVIL APPLICATION NO. 399 OF 2015
IN
FIRST APPEAL (ST.) NO. 32094 OF 2014**

Bajaj Alliance General Insurance Co. Ltd.	... Applicant.
V/s.	
Smt. Neelam Mahesh Pawar & Ors.	...Respondents.

Mr. M.M. Sathaye i/b Yogita Deshmukh for the applicant.

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

PC.:

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

2 The learned counsel for the applicant submits that the respondent original claimants filed execution application no. 259 of 2014 for recovery of entire amount. The next date in the said execution application in 2nd week of February, 2015. Hence, there is a urgency.

3 This application is preferred by the Insurance company for stay of operation and implementation of the Judgment and Award dated 15.03.2014 passed by the Motor Accident Claims Tribunal, Pune in Motor Accident Claims Petition No. 647 of 2010 awarding sum of Rs. 10,33,000/- with 8% interest per annum to the respondents claimants by way of compensation.

4 The learned Counsel for the applicant submits that applicants have good chance of success in the present matter. He submits that applicants are ready and willing to deposit the entire decretal amount in the Tribunal within four weeks from today. Statement is accepted.

5 In the present proceeding, the accident occurred on 09.05.2010 in which the claimant no.1 lost her husband. On the date of accident, the deceased was 26 years old and he was earning Rs.300/- per day. Claimant nos. 2 and 3 are minor children. Opponent nos. 3 and 4 are parents of the deceased. Considering this fact, I am of the opinion that claimant no.1 and opponent nos. 3 and 4 are entitled to withdraw some amount without furnishing any security.

6 Considering the submissions made by learned counsel for the applicant, averments made in civil application and as applicants are ready and willing to deposit entire decretal amount in the Tribunal, I am satisfied that applicant has made out the case for allowing the civil application.

7 As this Civil Application is decided without issuing notice to the respondents claimants, liberty granted to them 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 Hence, the following order.

a) The operation and implementation of impugned Judgment and Award dated 15.03.2014 passed by the Motor Accident Claims Tribunal in M.A.C.P. No. 647 of 2010 is stayed on condition that

applicant to deposit entire decretal amount including interest and cost 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 deposited within stipulated time as stated herein above, the claimants are entitled to withdraw the amount as under:

i) Claimant no.1 Smt. Neelam Mahesh Pawar is entitled to withdraw 25% amount with interest without furnishing any security.

ii) Respondent no.5 Sou. Bayadabai Kondiba Pawar is entitled to withdraw 5% amount with interest without furnishing any security.

iii) Respondent no.6 Shri. Kondiba Pandurang Pawar is also entitled to withdraw 5% amount with interest without furnishing any security.

c) Respondents claimants are granted liberty to take out appropriate application, if they so desire, for withdrawal of the remaining amount and that application will be decided on its own merits.

d) Civil Application is disposed of accordingly.

(K.K.TATED, J.)