

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

CIVIL APPLICATION NO.1247 OF 2015
IN
FIRST APPEAL (ST) NO.33040 OF 2014

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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Mr. Sanjiv Krishnan i/b. H. Rane for the Applicant

CORAM : K. K. TATED, J.
DATE : MARCH 25, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned judgment and award dated 12/03/2014 passed by the MACT Pune in MACP No.1074/2009 holding that the Respondent claimants are entitled to sum of Rs.27 lacs with 7.5% p.a. interest by way of compensation.

3. The learned counsel for the Applicant submits that the Respondent claimants filed Execution Application in which an attachment warrant is issued and the next date in that matter is 27/03/2015. Hence, there is urgency.

4. The learned counsel for the Applicant submits that the Tribunal erred in coming to the conclusion that the Respondent claimants are entitled to compensation of Rs.27 lacs with interest @ 7.5% p.a. He submits that at the time of awarding the compensation, the Tribunal has taken the salary of the deceased on higher side. He further submits that if entire amount is recovered by the claimant in the Execution Application, nothing will survive in the present proceedings. He further submits that, he received instructions from the Insurance Co. that they are ready and willing to deposit the entire decretal amount with interest and costs, if any within four weeks from today. Statement is accepted.

5. In the present proceedings, in an accident which occurred on 24/06/2009 the claimant Nos.1 and 2 lost their son Girish Krishnakumar Konnur. The deceased was 33 years old at the time of accident. He was working in Software Quality

Systems, SQS India Infosystems Pvt. ltd. as a SQA Analyst for more than 2 and half years. The deceased was technically qualified person. He had completed B.Com., LLB and a course in IT. Considering the qualification of the deceased and earning capacity, the claimants preferred Application under section 166 of the Motor Vehicles Act for compensation of Rs.28,53,500/-. The Tribunal awarded sum of Rs.27 lacs with interest @ 7.5 % p.a. Considering these facts, I am of the view that the Respondent claimants are entitled to withdraw some amount without furnishing any security. Hence, the following order:

- a) The operation and implementation of the impugned judgment and award dated 12/03/2014 passed by the MACT Pune in MACP No.1074/2009 is stayed on condition that the Applicant Insurance Co. has to deposit entire decretal amount along with interest, cost, if any, in the Tribunal within 2 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- b) If the amount is not deposited within stipulated time as stated hereinabove, the Respondent-Claimants are entitled to execute the award as per law.
- c) If the amount is deposited within stipulated time as stated hereinabove, the Respondent-

Claimants are entitled to withdraw the amount with accrued interest, as under without furnishing any security:

- I) Mrs. Rajani Krishnakumar Konnur – Rs. 3 lacs
- II) Mr. Krishnakumar Shriniwas Konnur – Rs. 1 lac
- III) Ms. Deepa Krishnakumar Konnur – Rs.75,000/-.

d) Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on its own merits.

e) Civil Application stands disposed off accordingly.

JUDGE