

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

**CIVIL APPLICATION NO. 117 OF 2016
IN
FIRST APPEAL (ST.) NO. 1047 OF 2016**

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. Sanjay Krishnan i/b Ms. Harshada Rane for the applicant.

**CORAM : K. K. TATED, J.
DATED : 13/01/2016**

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 respondent-claimant filed execution application for recovery of sum of Rs.54,88,759/-. Hence, there is an urgency.

3 This application is for stay of operation and implementation of Judgment and Award dated 11.06.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 479 of 2013 awarding sum of Rs. 47,36,853/- with interest @ 9% per annum by way of compensation.

4 The learned Counsel for the applicant submits that in the present First Appeal, they are challenging the compensation to the extent of Rs.36,37,853/- only. To that effect, they made statement in First Appeal.

5 The learned Counsel for the applicant submits that the Tribunal awarded excess compensation to the respondents-claimants. He submits that though the Tribunal awarded sum of Rs.8,83,853/- towards the medical bills, but as per their information the respondent-claimant already recovered the sum of Rs.7,00,000/- from other Insurance Company. Similar way the Tribunal awarded compensation for future medical expenses as well as conveyance, loss of future income, future maid servant charges, future nursing dependents charges on higher side. He submits that they already deposited cheque of the entire awarded amount in the Tribunal. The statement is accepted.

6 The learned Counsel for the applicant submits that if the entire amount is withdrawn by the respondent-claimant, nothing will survive in the present proceeding, He submits that they have good chance of success in the present matter.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 the operation and implementation of impugned Judgment and Award passed by the

Tribunal to the extent of Rs. 36,37,853/- till the hearing and final disposal of the First Appeal.

7 In the present proceeding, in the accident which occurred on 03.02.2013, the respondent-claimant sustained several injuries, Doctor has certified 85% permanent disability. Considering the income of the respondent-claimant, the Tribunal awarded Rs.47,37,853/- for future loss as well as other expenses.

8 Considering the injury sustained by the respondents-claimants and permanent disability, I am of the opinion that respondent-claimant is entitled to withdraw some amount without furnishing any security.

9 It is to be noted that in the present proceeding there is delay of 81 days on the part of the Insurance Company to file First Appeal. This is one of the ground that respondent-claimant may be allowed to withdraw some amount without furnishing any security.

10 Hence, following order.

a) Operation and implementation of the impugned Judgment and Award dated 11.06.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 479 of 2013 is stayed till the hearing and final disposal of the First Appeal on condition that applicant to deposit the entire

awarded amount including interest and cost in the Tribunal within two weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

b) If amount is not deposited within stipulated time as stated hereinabove, the respondent claimant is free to execute the award according to law.

c) If amount is deposited within stipulated time as stated hereinabove, Respondent claimant Sou. Sandhya Murlidhar Kenjale can withdraw sum of Rs.20,00,000/- with accrued 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 hearing and final disposal of the First Appeal.

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

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)