

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

**CIVIL APPLICATION NO. 267 OF 2016
IN
FIRST APPEAL (ST.) NO. 2565 OF 2016**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Ms. D.S. Joshi for the Applicant.

**CORAM : K. K. TATED, J.
DATED : 28/01/2016**

PC.:

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

2 This civil application is preferred by Insurance Company for stay of operation and implementation of the Judgment and Award dated 07.05.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 345/2012 by which the Tribunal held that respondents-claimants are entitled sum of Rs. 53,96,165/- with 9% interest per annum by way of compensation.

3 The learned Counsel for the applicant submits that respondents-claimants filed execution application No. 149 of 2014 for recovery of entire awarded amount. He submits that applicant handed

over the cheque of entire awarded amount to the Bailiff of the M.A.C.T. Satara under protest. Hence, there is an urgency in the matter.

4 The learned Counsel for the applicant submits that they have good chance of success in the present matter. He submits that if entire amount is withdrawn by the respondents-claimants, nothing will survive in the present proceeding. 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 till the hearing and final disposal of the First Appeal.

5 In the present proceeding, in a accident which occurred on 24.05.2012, the claimant no.1 lost her husband who was 30 years old. At the time of accident, he was working with Military at Nashik Unit, was getting salary of Rs.29,098/- per month. On the basis of deceased age and pay the claimants filed application under Section 166 of the M.V. Act claiming compensation to the tune of Rs.71,78,000/- with 10% interest.

6 Considering the fact that claimant no.1 who is widow has to maintain her minor child as well as father-in-law and mother-in-law, who are Senior Citizens, I am of the opinion that she is entitled to withdraw some amount without furnishing any

security. As there is delay on the part of Insurance Company to file the present First Appeal in this Court, the respondents-claimants are entitled to withdraw some amount.

7 Hence, following order.

a) Operation and implementation of the impugned Judgment and Award dated 07.05.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 345 of 2012 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 four weeks from today, if the cheque is not honoured which was issued to the bailiff of the the Motor Accident Claims Tribunal, Satara, failing which civil application shall stand dismissed without referring back to the court.

b) If amount is not deposited within stipulated time as stated herein above, the respondents-claimants are free to execute the Award according to law.

c) If amount is deposited within stipulated time as stated herein above, respondents-claimants are entitled to withdraw the amount without furnishing any security as follows:

- i) Archana Shankar Mane – Rs.5,00,000/-
- ii) Prakash Maruti Mane – Rs.1,00,000/-

iii) Sumal Prakash Mane - Rs.1,00,000/-

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 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.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)