

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

**CIVIL APPLICATION NO. 774 OF 2016
IN
FIRST APPEAL NO. 302 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. D.S. Joshi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 26/02/2016**

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 respondents-claimants filed execution application for recovery of awarded amount. Hence, there is an urgency.

3 This application is preferred by Insurance Company for stay of operation and implementation of the Judgment and Award dated 12.02.2015 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P No. 256 of 2012 holding that respondents-claimants are entitled to Rs.24,78,328/- with 8% interest by way of compensation.

4 The learned Counsel for the applicant submits

that Tribunal has awarded compensation on higher side. He submits that though the claimants stated that deceased was earning Rs.15000/- to Rs.20000/- per month, they failed to place on record any documentary evidence to show the same. He further submits that if the entire amount is recovered by the respondents-claimants in execution application then it will be very difficult for them to recover the same if they succeed before this Court.

5 The learned Counsel for the insurance company submits that he received instructions from the insurance company that they are ready and willing to deposit entire awarded amount in Tribunal within six weeks from today. The statement is accepted.

6 In the present proceeding, the accident which occurred on 22.05.2012, the claimant no.1 lost her husband. On the date of accident, the deceased was 37 years old. He was doing business as well as agriculture activities. He used to earn Rs.15,000/- to Rs.20,000/- per month. On the basis of these facts, the claimants filed claim application under Section 166 of M.V.Act claiming compensation. The claimant no.1 is household wife. Whereas, claimant nos. 2, 3 and 4 are minors taking education.

7 Considering these facts, I am of the opinion that at present claimant no.1 Smt. Vanita Ashok

Jadhav can withdraw sum of Rs.5 lacs with interest without furnishing any security, but subject to the outcome of the First Appeal.

8 Hence, following order is passed:

a) Operation and implementation of the impugned Judgment and Award dated 12.02.2015 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P No. 256 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 six 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 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, claimant no.1 Smt. Vanita Ashok Jadhav is entitled to withdraw sum of Rs.5 lacs with interest without furnishing any security, but subject to the outcome of the First Appeal.

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.

g) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)