

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

**CIVIL APPLICATION NO. 3143 OF 2015
IN
FIRST APPEAL (ST.) NO. 28232 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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Ms. Bhakti Barne for the applicant.

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

PC.:

. Heard learned Counsel for the applicant.

2 This civil application is preferred by Insurance Company stay of operation and implementation of the Judgment and Award dated 02.01.2014 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P No. 151 of 2010 awarding sum of Rs.6,39,000/- with interest 7.5 % per annum by way of compensation.

3 In the present proceeding, the accident which occurred on 07.04.2009, the claimant no.1 lost her husband. At that time, he was 30 years old and he was earning Rs.5000/- per month. Hence, claimants filed application under Section 166 of M.V. Act claiming compensation of Rs.4,00,000/-.

4 The learned Counsel for the Applicant

Insurance Company submits that the Tribunal erred in coming to the conclusion that Insurance Company is liable to pay compensation as awarded. She submits that at the time of accident, the deceased was not holding valid licence. Hence, there was breach of terms of insurance policy. She submits that at the time of accident, three persons were traveling on motor bike. Hence, Insurance Company is not liable to pay compensation. She submits that they have good chance of success in the present matter. She 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. She submits that if entire amount is recovered by the respondents-claimants, nothing will survive in the present proceeding.

5 The learned Counsel for the insurance company submits that she 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 Considering the submissions made by the learned Counsel for the applicant and as the Insurance Company is ready and willing to deposit

the entire awarded amount in the Tribunal within six weeks, I am satisfied that applicant has made out case for allowing the Civil Application. At the same time, considering the fact that the claimant No.1 has to maintain her four minor children, she is entitled to withdraw some amount.

7 Hence, following order.

a) Operation and implementation of the impugned Judgment and Award dated 02.01.2014 passed by the Motor Accident Claims Tribunal, Solapur in M.A.C.P. No. 151 of 2010 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, the claimant No.1 Smt. Sunanda Bajirao Dalave is entitled to withdraw 20% amount 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.

f) The Registry of this Court is directed to transfer the amount of Rs.25,000/- with interest if any, which was deposited by the applicant at the time of filing of First Appeal, to the Tribunal in the account of M.A.C.P. No.151 of 2010.

g) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)