

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

**CIVIL APPLICATION NO. 2992 OF 2014
IN
FIRST APPEAL (ST.) NO. 375 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. D. S. Joshi for the applicant.

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

PC.:

. Heard learned Counsel for the applicant.

2 This civil application is preferred by Insurance Company for stay of operation and implementation of the Judgment and Award dated 25.06.2013 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 431 of 2009 holding the respondents-claimants are entitled to compensation of Rs.18,26,800/- with 9% interest per annum.

3 The learned Counsel for the applicant submits that the Tribunal awarded compensation on higher side. He submits that the deceased was working as a security guard. He was getting the pension of Rs.3047/- and salary of Rs.6321/-. He submits that

the Tribunal has not considered the fact that the pension is continued in favour of claimant no.1 who is widow.

4 The learned Counsel for the applicant submits that if the entire amount is recovered by the respondents-claimants in execution application then 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 till the hearing and final disposal of the First Appeal.

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 12.06.2009, the applicant no.1 lost her husband. At that time, the deceased was 45 years old. He was working as security guard and was superannuated from Army. That time, he was getting Pension of rs.3047/- and salary of Rs.6320/-. On the basis of this fact, the claimants filed claim Petition under Section 166 of the Motor Vehicle Act,

1988 claiming compensation of Rs.32,70,000/-.

7 Considering the fact that the claimant no.1 is household wife and claimant nos. 2 and 3 are taking education and claimant no.4 is father of the deceased, I am of the opinion that claimants may be permitted to withdraw some amount without furnishing any security.

8 Hence, following order is passed:

a) Operation and implementation of the impugned Judgment and Award dated 25.06.2013 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 431 of 2009 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 claimants are entitled to withdraw the amount without furnishing any security, but subject to the outcome of the First Appeal as follows:

- 1) *Smt. Bharati Prakash Sonawane - 15% of total compensation.*
- 2) *Suraj Prakash Sonawane – 5% of total compensation.*
- 3) *Mahendra Prakash Sonawane – 5% of total compensation.*
- 4) *Shri.Rajaram Dhondiba Sonawane – 5% of total compensation.*

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 remaining amount and that application will be decided on its own merits.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)