

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

CIVIL APPLICATION NO.579/2016
IN
FIRST APPEAL (ST) NO. 2901/2016

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. Rajesh Kanojia a/w. Deepika Motagi and Allena George i/b. Res Juris for the applicant

CORAM : K. K. TATED, J.
DATE : FEBRUARY 10, 2016

P.C.:

1. Not on board. At the request of learned counsel for the applicant, the matter is taken on board.

2. This application is made by the Insurance Company for stay of the operation and implementation of the impugned award dated 15/10/2015 passed by the MACT, Thane in MACP No.625/2012 awarding sum of Rs.41,35,272/- with 8% p.a. interest to the respondent-claimant.

3. The learned counsel for the applicant submits that the respondent-claimant has filed execution application No.2/2016. He submits that if amount is withdrawn /recovered by the

claimant, nothing will survive in the matter. He submits that the respondent-claimant failed to prove the salary of the deceased. He submits that the claimants placed on record only salary slip of the deceased which was for the year 2012. On the basis of that salary slip, the Tribunal awarded compensation in favour of the respondent-claimant. He submits that the compensation awarded by the Tribunal is on higher side.

4. The learned counsel for the applicant submits that if entire awarded amount is recovered by the claimant, nothing will survive in the matter. He submits that the applicant has good chance of success in the matter. He submits that if stay is not granted, irreparable loss will be caused to the applicant. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award till hearing and final disposal of the appeal.

5. The learned counsel for the Insurance Company makes a statement that he received instructions from the Insurance Company that they are ready and willing to deposit the entire awarded amount in the Tribunal within 4 weeks from today. Statement is accepted.

6. In the present proceedings, in an accident which occurred on 19/07/2012, the claimant No.1 lost her husband and claimant No.2 and 3 their son. On the date of accident, the deceased was of 35 years old and he was working with Vallabhadas Kanji Ltd. Mahape, MIDC, Navi Mumbai and was earning Rs.3,34,800/- p.a. Considering these facts and the age of the original claimant No.2 and 3 who are parents of the deceased, I am of the opinion that the claimants are entitled to withdraw some amount, without furnishing any security, subject to outcome of the appeal.

7. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 15/10/2015 passed by the MACT, Thane in MACP No.625/2012 is stayed, till hearing and final disposal of the appeal on condition that the Applicant Insurance Company to deposit the entire awarded amount with interest, cost, if any, in the Tribunal within 6 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondents are entitled to

execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the respondent claimants are entitled to withdraw the awarded amount, as under, without furnishing any security, subject to outcome of the appeal.

a. Smt. sharayu Vidhyadhar Hande - Rs. 7 lacs

b. Mrs. Shubhangi Digambar Hande - Rs. 2.50 lacs

c. Mr. Digambar Daulat Hande – Rs.2.50 lacs

d. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.

e. Liberty granted to the Respondent claimants to make an appropriate Application for withdrawal of further awarded amount, if they so desire, which will be decided on its own merits

f. Statutory deposit, if any made by the applicant Insurance Company at the time of filing the appeal, be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

JUDGE