

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

CIVIL APPLICATION NO.353/2016
IN
FIRST APPEAL (ST) NO. 2972/2016

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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Ms. Yogita M. Deshmukh i/b. M. M. Sathaye for the Applicant

CORAM : K. K. TATED, J.
DATE : FEBRUARY 2, 2016

RC.:

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

2. The learned counsel for the applicant submits that the respondent claimant filed execution application in which the Executing Court issued warrant. Hence, there is urgency.

3. This application is made by the Insurance Company for stay of the operation and implementation of the impugned award dated 17/04/2015 passed by the MACT, Satara in MACP No.215/2012 by which the Tribunal held that the

respondent-claimants are entitled to sum of Rs.21,30,435/- with 9% p.a. interest by way of compensation.

4. The learned counsel for the applicant submits that in the present proceedings the Tribunal erred in coming to the conclusion that the respondent-claimants are entitled to sum of Rs.21,30,435/- towards compensation. She submits that the deceased was doing blasting work. She submits that the claimant has not placed on record any documents to show how much amount the deceased was earning per month. Hence, the compensation awarded by the Tribunal is on higher side.

5. The learned counsel for the applicant submits that the applicant has good chance of success in the matter. She submits that even the Tribunal awarded compensation on future amount. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the impugned judgment and award till hearing and final disposal of the appeal.

6. The learned counsel for the applicant makes a statement that she 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.

7. In the present proceedings, in an accident which occurred on 30/09/2011 the claimant No.1 lost her husband. On the day of accident, he was 35 years old and was doing blasting work. As per the contention of the claimant, deceased used to earn near about 25,000/- pm. On the basis of the income of the deceased, the respondent-claimant filed application u/s. 166 of the Motor Vehicles Act, 1988 and claimed compensation of Rs.20 lacs with 9% p.a. interest.

8. The claimant No.1 is widow, whereas claimant Nos.2 and 3 are minors and they are taking education and claimant Nos.4 and 5 are parents of the deceased. As there is delay on the part of the Insurance Company to prefer the appeal, I am of the opinion that the claimants are entitled to withdraw some amount, without furnishing any security, subject to outcome of the appeal.

9. Considering the submissions made by the

learned counsel for the applicant and the averments made in the civil application and since the applicant is ready and willing to deposit the entire awarded amount in the Tribunal within 4 weeks from today, I am of the opinion that the applicant has made out a case for allowing the civil application.

10. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 17/04/2015 passed by the MACT, Satara in MACP No.215/2012 is stayed, till hearing and final disposal of the appeal on condition that the Applicant State to deposit the entire awarded amount with interest, cost, if any, in the Tribunal within 4 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

Respondents are entitled to withdraw the amount with accrued interest, as under:

- i. Rekha Hanmant Sarak Rs. 5,00,000/- + interest
- ii. Dinakar Ananda Sarak Rs. 75,000/- + interest
- iii. Smt. Saguna Dinakar Sarak Rs.75,000/- + interest

d. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Tribunal is directed to invest the same 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 amount, if they so desire, which will be decided on its own merits

f. Civil application stands disposed off accordingly.

JUDGE