

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

**CIVIL APPLICATION NO. 600 OF 2016
IN
FIRST APPEAL (ST.) NO. 3766 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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Ms. Poonam Mittal for the applicant.

**CORAM : K. K. TATED, J.
DATED : 11/02/2016**

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 Regular Darkhast No. 7 of 2016 for recovery of awarded amount. She submits that if entire amount is recovered by the respondents-claimants in Dharkhast, then nothing will survive in the present proceeding. 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 14.08.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 52 of 2013 holding that

respondents-claimants are entitled to compensation of Rs.19,28,000/- with 9% interest per annum.

4 The learned Counsel for the applicant submits that the Tribunal failed to consider the contributory negligence. She submits that Tribunal has considered the contributory negligence on the part of the deceased only 20%. She submits that compensation awarded by the Tribunal is on higher side. She further submits that applicant has 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 stay is not granted, irreparable loss and injury will be caused to them.

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 four weeks from today. The statement is accepted.

6 In the present proceeding, in accident which occurred on 21.01.2012, claimant no.1 lost her husband, claimant no.2 her father and claimant no.3 her son. On the date of accident, the claimant was working as mason with S.M. Nimbalkar, proprietor

of M/s. Eagle Construction, Phaltan and his monthly income was Rs.12,000/-.

7 Considering the fact that the Claimant No.1 is widow, she has to maintain her minor child as well as mother-in-law and as there is a delay on the part of the applicant in filing First Appeal, I am of the opinion that claimants are entitled 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 14.08.2015 passed by the Motor Accident Claims Tribunal, Satara in M.A.C.P. No. 52 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 four 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. Rani Bharat Dadas is entitled to withdraw sum of Rs.3,00,000/- with accrued interest without

furnishing any security and Claimant No.3 Smt. Ratan Tukaram Dadas is entitled to withdraw Rs.1,50,000/- with accrued 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 remaining amount and that application will be decided on its own merits.

f) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)