

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

**CIVIL APPLICATION NO. 639 OF 2016
IN
FIRST APPEAL (ST) NO. 4667 OF 2016**

Divisional Controller Gujarat State
Road Transport Corporation

... Applicant.

V/s.

Sujata Deepak More & Ors.

... Respondents

Ms. Pinky Bhansali for the applicant.

**CORAM : K. K. TATED, J.
DATED : 16/02/2016**

P.C.:

. 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 Execution Application No. 171 of 2015 for recovery of entire awarded amount. She submits that they deposited the entire awarded amount including interest in the Tribunal. She submits that if the entire amount is withdrawn by the Respondents-claimants, then nothing will survive in the present proceeding. Hence, there is an urgency.

3 The learned counsel for the applicant submits that the Tribunal erred in coming to the conclusion that because of negligence on the part of the applicants' driver the accident occurred. She submits that

the Tribunal has considered the multiplier on higher side. She submits that considering the facts and circumstances of the present case, the Tribunal has awarded compensation on higher side. She submits that they have good chance of success in the present matter.

4 The learned counsel for the applicant submits that they have already deposited the entire awarded amount in the Tribunal. Hence, pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of impugned award passed by the Tribunal. She submits that if entire amount is withdrawn by the Respondents-claimants and in case the applicant succeed before this court then it will be very difficult for them to recover the entire awarded amount.

5 It is to be noted that in the present proceeding, the accident which occurred on 06.02.2013, the claimant no.1 lost her husband and claimant no.2 his father. On the date of accident, the deceased was 32 years old. He was working as Teacher at Sitaram Bhoje Primary Ashramshala, Pimpalvati, Taluka Peth Dist. Nashik and was earning Rs.25,817/- per month. Considering the age of the deceased and his monthly salary, the respondents-claimants filed claim petition under Section 166 of M.V. Act claiming compensation of Rs.35 lacs. The Tribunal after considering the evidence on record, passed impugned award and awarded sum of Rs. 35,88,900/- with 7.5% interest per annum to the respondents-claimants by way of compensation.

6 Considering the fact that the claimant no.1 is household wife and she has to maintain her minor child, who is taking education, I am of

the opinion that claimant No.1 can withdraw some amount without furnishing any security.

7 Hence, following order is passed:

- a) Operation and implementation of the impugned Judgment and Award dated 23.07.2015 passed by the Motor Accident Claims Tribunal, Nashik in M.A.C.P. No. 593 of 2013 is stayed till the hearing and final disposal of the First Appeal.
- b) Respondent-claimant No.1 Smt. Sujata Deepak More is entitled to withdraw sum of Rs.5,00,000/- with accrued interest without furnishing any security.
- c) 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.
- d) 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.
- e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)