

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

**CIVIL APPLICATION NO.3239 OF 2014
IN
FIRST APPEAL NO.1149 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.Rahul Mehta i/b M.s.KMC Legal Venture for the applicant

Mrs.Poonam Mittal for the respondent no.7

**CORAM : K. K. TATED, J.
DATED : 09/02/2016**

PC.:

. Heard the learned counsel for the applicant.

2 This application is preferred by Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 18.10.2013 passed by MACT, Mumbai in Application No.154 of 2004 by which the Tribunal held that the Insurance Company is liable to pay compensation of Rs.5,66,800/- with 7.5% interest p.a.

3 The learned counsel for the Insurance Company submits that the Tribunal failed to appreciate that the Respondent-claimant produced on record the RTO certificate showing that offending

vehicle was insured with the Insurance Company. Apart from that, they failed to produce on record copy of Insurance Policy. He submits that Insurance Company specifically raised objection about the cover note. Hence, Tribunal ought to have decided that Insurance Company is not liable to pay any compensation. He submits that Insurance Company already deposited entire awarded amount of their share in the Tribunal. Statement is accepted.

4 In the present proceedings, in an accident which occurred on 18.2.2004 Respondents-claimants lost their father. On the date of accident deceased was 42 years old. He was serving at Thakkar Bappa Colony and was earning Rs.5,000/- per month. On the basis of these facts, Respondent-claimants filed application under section 166 of the Motor Vehicles Act, 1988 claiming compensation to the tune of Rs.8 lacs.

5 Considering the evidence on record Tribunal held that the claimants are entitled sum of Rs.5,66,800/- with interest by way of compensation.

6 Considering the fact that org.claimants lost their father in an accident and after perusing the judgment and award passed by the Tribunal, I am satisfied that the org.claimants are entitled to withdraw some amount without furnishing any security subject to outcome of the First Appeal. Hence, following order is passed:

- a. The operation and implementation of the impugned judgment and award dated 18.10.2013 passed by MACT, Mumbai in Application No.1541 of 2004 is stayed, till hearing and final disposal of the appeal.
- b. Claimant no.1, Rashmi Hanumant Waghmare, claimant no.2 Avinash Hanumant Waghmare and claimant no.3, Rajani Hanumant Waghmare are permitted to withdraw compensation of 15% each with accrued interest without furnishing any security subject to outcome of the present First Appeal.
- c. The Tribunal is directed to invest the remaining awarded 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.
- d. Liberty granted to the claimants to make an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits
- e. Civil application stands disposed off accordingly.

(K.K.TATED, J.)