

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

CIVIL APPLICATION NO.4202/2014
IN
FIRST APPEAL NO. 1007/2012

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. Pooja Kamat i/b. A. M. Gokhale for the Applicant
Mr. M. M. Sathaye for the Respondent

CORAM : K. K. TATED, J.
DATE : JANUARY 20, 2016

RC.:

1. Heard. This Application is made by the claimant for withdrawal of the amount deposited by the Appellant Insurance Company in the Tribunal.

2. The learned counsel for the Applicant claimant submits that in an accident which occurred on 16/07/2007 the Applicant No.1 lost her husband. On the date of accident, he was 45 years old and he was working as a driver. He was getting salary of Rs.5000/- pm. plus bhatta of Rs.100/- per day. She submits that it is very difficult for the Applicant to maintain her day-to-day needs. She submits that in the interest of

justice, this Hon'ble Court be pleased to allow the Applicant to withdraw the amount deposited by the Insurance Company. She submits that Applicant Nos.3 and 4 i.e. daughter and son of the deceased are taking education. She submits that the widow has to spend amount on their education as well as day to day expenses. Hence, the Civil Application may be allowed.

3. On the other hand, the learned counsel for the Appellant Insurance Company vehemently opposed the Civil Application. He submits that the Applicant has not taken any steps to execute the impugned award against the owner of the vehicle. He submits that the Appellant has good chance of success in the matter. He submits that if entire awarded amount is withdrawn by the Applicant nothing will survive in the present proceedings. There is no substance in the Civil Application. Same be dismissed with costs.

4. Heard the learned counsel for the parties at length. It is to be noted that in the impugned award, though the Tribunal granted liberty to the Appellant Insurance Co. to initiate appropriate proceedings for recovery of the entire awarded amount from the owner of the offending vehicle,

they failed to do so. Across the bar, the learned counsel for the Appellant makes a statement that as per his instructions, the Insurance Co. has not taken any steps to execute the impugned award to recover amount from the owner. Considering this fact and the averments made in the Civil Application and as the Applicant Nos.3 and 4 are taking education and the Applicant No.1 has to spend for their day-to-day needs, I am of the opinion that the Applicants are entitled to withdraw some amount with an undertaking to be furnished before the Tribunal that if the Appellant Insurance Co. succeeds in the appeal, the Applicants claimants would bring back the amount withdrawn by them, as and when they are directed to do so.

5. Hence, following order is passed:

a. The Applicant No.1 Daljeetkaur Narendra Singh, No.2 Sandeepkaur Narendra Singh and No.3 Karamdeepkaur Narendra Singh are entitled to withdraw 10% each of the awarded amount, with an undertaking that if the Appellant Insurance Co. succeeds in the appeal, the Applicants claimants would bring back the amount withdrawn by them, as and when they are directed to do so.

b. Civil Application stands disposed off accordingly.

JUDGE