

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.4305/2015
IN
FIRST APPEAL (ST) NO. 30502/2014

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. Minal Dedhia i/b. M/s. Navdeep Vora & Associates for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 7, 2016

P.C.:

1. Heard. This Application is made by the opposite party for stay of the operation and implementation of the impugned award dated 21/03/2014 passed by the MACT, Mumbai in MACP No.2968/2006 by which the Tribunal held that the Respondent-claimants are entitled to sum of Rs.12,67,500/- with interest @ 7.5% p.a. by way of compensation.

2. In the present proceedings, in an accident which occurred on 20/08/2006, the claimant No.1 lost her husband who was 26 years old and was working with Royal New Manufacturing Co. and was earning Rs.15000/- pm. Hence, the Respondent-claimant filed claim petition u/s 166 of the Motor Vehicles Act, 1988 claiming

compensation of Rs.25 lacs. The Tribunal, on the basis of evidence, awarded sum of Rs.12,67,500/- by way of compensation.

3. The learned counsel for the Applicant submits that the Tribunal has awarded compensation on higher side. She submits that though the Respondent-claimant stated in the claim petition that the deceased was working with Royal New Manufacturing Co. and was earning Rs.15000/-, they failed to produce any evidence on record. In spite of that the Tribunal has considered the monthly salary of Rs.5000/-. She submits that when the accident occurred, the deceased was not wearing helmet which is mandatory under the Motor Vehicles Act, 1988. She submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award till hearing and final disposal of the appeal. She submits that if stay is not granted, irreparable loss, harm and injury will be caused to the Applicant.

4. In the present proceedings, in an accident which occurred on 20/08/2006, claimant No.1 lost her husband. On the date of accident he was working and earning Rs.5000/- pm salary.

Considering the fact that the claimant No.1 has to maintain her two children as well as her in-laws, I am of the opinion that at present the claimants are entitled to withdraw some amount without furnishing any security subject to out come of the appeal.

5. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 21/03/2014 passed by the MACT, Mumbai in MACP No.2968/2006 is stayed, till hearing and final disposal of the appeal on condition that the Applicant Insurance Company to deposit the entire awarded amount with interest, cost, if any, in the Tribunal within 6 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 Respondent-claimants are entitled to execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Respondent-claimant are entitled to withdraw amount, as under, along with accrued interest,

without furnishing any security subject to outcome of the appeal:

- a. Claimant No.1 Mrs. Dharmistha Prakash Patel Rs.1,50,000/-
- b. Claimant No.2 Natvarlal B. Patel Rs.50,000/-
- c. Claimant No.3 Mrs. Pushpaben Natvarlal Patel Rs.50,000/-
- d. The Tribunal is directed to invest the remaining award 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.
- e. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits
- f. The statutory deposit, if any, made by the Applicant at the time of filing the First Appeal be transferred to the Tribunal.
- g. Civil application stands disposed off accordingly.

JUDGE