

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

CIVIL APPLICATION NO.310/2016
IN
FIRST APPEAL (ST) NO. 136/2016

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. Deepika Motagi a/w. Allena George i/b.
respondent Juris for the Applicant

CORAM : K. K. TATED, J.
DATE : FEBRUARY 5, 2016

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the applicant, the matter is taken on board for urgent orders.

2. The learned counsel for the applicant submits that the respondent-claimant filed execution application No.264/2015 for recovery of entire awarded amount. She submits that if amount is withdrawn /recovered by the claimant, nothing will survive in the matter. Hence, the applicant has got produced the papers for urgent orders.

3. This application is made by the Insurance Company for stay of the operation and implementation of the impugned award dated 28/09/2015 passed by the MACT, Pune in MACP No.191/2011 holding that the respondent-claimant are entitled to sum of Rs.23,50,000/- with 8% p.a. interest by way of compensation.

4. The learned counsel for the applicant submits that though the Insurance Company raised objection about holding a valid licenses by the driver of the offending vehicle, same was not considered by the Tribunal. She submits that the applicant has good chance of success in the matter. 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.

5. The learned counsel for the Insurance Company makes a statement that she received instructions from the Insurance Company that they are ready and willing to deposit the entire awarded amount in the Tribunal within 6 weeks from today. Statement is accepted.

6. It is to be noted that, in an accident which

occurred on 03/12/2010, the claimant lost her husband who was 36 years old. He was doing his business of hotel and restaurant at village Manchar by name Hotel New Mayur Garden and Restaurant and was earning Rs.15,000/-. He was also doing agricultural work in his field and was getting Rs.5000/- pm. On the basis of these facts, respondent-claimant filed application u/s. 166 of the Motor Vehicles Act, 1988 claiming compensation of Rs.25,00,000/-.

7. It is to be noted that, the claimant No.1 is a widow and Nos.2 and 3 are her minor children. Claimant No.5 is mother-in-law of claimant No.1. Considering the fact that claimant No.1 has to maintain her minor children along with her mother-in-law, I am of the opinion that the claimant Nos.1 and 5 are entitled to withdraw some amount without furnishing any security, subject to outcome of the appeal.

8. Hence, following order is passed:

a. The operation and implementation of the impugned judgment and award dated 28/09/2015 passed by the MACT, Pune in MACP No.191/2011 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 Respondents are entitled to execute the award as per law.

c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the respondents claimants are entitled to withdraw the awarded amount, as under, without furnishing any security, subject to outcome of the appeal.

- i) Smt. Sunanda Bhausahab Thorat – 20%
- ii) Smt. Yamunabai Jaihind Thorat – 5%

d. The Tribunal is directed to invest the remaining 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 Respondent claimants to make an appropriate Application for withdrawal of further awarded amount, if they so desire, which will be decided on its own merits

f. Statutory deposit, if any made by the applicant Insurance Company at the time of filing the appeal, be transferred to the Tribunal.

g. Civil application stands disposed off accordingly.

JUDGE