

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

**CIVIL APPLICATION NO.2792 OF 2019
IN
FIRST APPEAL NO.335 OF 2019**

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.Tejpai S. Ingale for the Applicant

Ms.Poonam Mittal for the Respondent

Mr.Rahul Patil I/b Mr.Umesh R. Mankapure for
the Respondent no.4

**CORAM : K. K. TATED, J
DATE : AUGUST 22, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant original Claimants are seeking permission to withdraw sum of Rs.10,00,000/- deposited by the appellant Insurance Company pursuant to the impugned judgment and award dated 3.4.2018 passed by MACT, Sangli in MACP

No.274 of 2012.

3 The learned counsel for the Applicant submits that in an accident which occurred on 14.3.2012, Applicant no.1 lost her husband. Hence, they filed petition under section 166 of the Motor Vehicles Act, 1988 claiming compensation. He submits that Tribunal after considering the evidence on record held that Claimants are entitled sum of Rs.22,60,153/- by way of compensation with interest @ 6% p.a.

4 The learned counsel for the Applicant submits that at the time of admission of First Appeal, the learned counsel for the Appellant Insurance Company specifically made a statement before this court that they filed present First Appeal to challenge the impugned judgment and award to the extent of Rs.14,52,600/- only. Hence, this court permitted Claimant to withdraw undisputed amount without furnishing any security.

5 The learned counsel for the Applicant submits that Applicant no.1 is not keeping well. He submits that she requires some amount for her medical treatment. He submits that she requires some amount for her welfare also. The learned counsel for the Applicant relies on paragraph 3 of the Civil Application in support of his submissions.

6 The learned counsel for the Applicant submits that in the interest of Justice, this Hon'ble court be pleased to permit the Applicant to withdraw sum of Rs.10,00,000/- withdraw furnishing any security. He submits that if Applicant is not allowed, irreparable loss will be caused to the Applicant.

7 On the other hand, the learned counsel for the appellant Insurance Company vehemently opposed the present Civil Application. She submits that if Applicants are permitted to withdraw amount without furnishing any security, then it will be very difficult for them to recover the amount if they succeed before this court. If this court permits Applicant to withdraw some amount, in that case, they must be insisted to provide solvent security to the satisfaction of the Trial Court.

8 It is to be noted that in the present proceeding, Applicant no.1 lost her husband. In the present proceeding disputed amount is Rs.14,52,600/-. It is to be noted that Applicant no.1 i.e. Sharayu Mahaveer Chaudhary can be permitted to withdraw sum of Rs.10 lacs in her account only.

9 Considering the submissions made by the learned counsel for the Applicant and the reasons disclosed in paragraph 3 of the Civil

Application, I am satisfied that the Applicant has made out a case for allowing the Civil Application. Hence, following order is passed:

- a. Applicant no.1 is permitted to withdraw total sum of Rs.10 lacs without furnishing any security but subject to outcome of the First Appeal.
- b. Civil Application stands disposed of accordingly.
- c. No order as to costs.

(K.K.TATED, J.)