

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

CIVIL APPLICATION NO.2856/2019.

IN

FIRST APPEAL (ST)NO.22789/2019

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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Advocate Mr.Amit Gharte for applicants.

CORAM : K. K. TATED, J
DATE : AUGUST 16, 2019.

P.C.:

Not on board. At the request of learned advocate for appellant, matter is taken on production board for urgent orders.

2 By this civil application, applicants are seeking stay of operation and implementation of impugned judgment dated 14.12.2018 and award dated 7.2.2019 passed by MACT, Pandharpur, in MACP No.13/2017.

3 Learned counsel for applicant submits that the Tribunal awarded sum of Rs. 26,90,400/- by

way of compensation with interest @ 9% pa.

4. Learned counsel for applicant submits that the the compensation awarded by the trial court is at higher side. He submits that they have good chance of success.

5 Learned counsel for applicant submits that pending hearing and final disposal, this court be pleased to stay the operation and implementation of impugned judgment and award. He submits that if stay is not granted, it will cause irreparable loss to applicant. He submits that if entire amount is recovered by respondent by filing execution application then nothing will survive in the present proceeding.

6. It is to be noted that in the present proceeding, in an accident which occurred on 26.4.2017 claimant no.1 lost her husband, Vijay Ingole who was earning Rs.5 lakhs p.a. The original claimant nos.2 and 3 are petitioners. Because of accident original claimants filed application u/s 166 of the Motor Vehicle Act claiming compensation. On the basis of evidence, the Tribunal has awarded sum of

Rs.26,90,400/-,by way of compensation instead of 35,25,000/- as claimed by respondent. It is to be noted that there is delay on the part of applicant to file first appeal.

7. Considering these facts and as claimant no.1 and 2 are household wives and claimant no.3 is father of the deceased, I am of the opinion that they can be withdraw amount during pendency of appeal.

8 Hence, the following order.

A)Civil application is allowed in terms of prayer clause (a) which is reproduced as below, on condition that applicant to deposit entire awarded amount @ interest in the Tribunal on or before 30.9.2019 failing which the civil application shall stand dismissed without referring back to court. Prayer clause (a) reads thus;

(a)That this Hon'ble Court be pleased to stay the implementation, operation and execution of impugned Judgment dated 14.12.2018 and award dated 7.2.2019 passed in

MACP No.13/2017 by learned Motor
Accident Claim Tribunal,
Pandharpur.

B) If entire amount is deposited within stipulated time as stated hereinabove, the respondent claimant no.1 Smt.Monika Vijay Ingole is permitted to withdraw Rs.4,00,000/- with accrued interest and claimant no.2 Gita Kailas Ingole and No.3 Kailas Sampatti Ingole are permitted to withdraw Rs.2,00,000/- each with accrued interest without furnishing security but subject to outcome of first appeal.

C) The Tribunal is directed to invest amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

D) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for withdrawal of amount and that application will be decided on its own merits.

E) Civil application disposed of.

F) No order as to cost.

(K.K.TATED, J.)