

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

**CIVIL APPLICATION NO.1026/2017
IN
FIRST APPEAL NO.326/2015**

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 Ms Tejas Kapre i/b Mr.J.S.Kapre for applicant.
Advocate Mr.SM Dange for Appellants.

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

P.C.:

By this civil application, applicant/claimant Nos. 3, 4 and 5 are seeking permission to withdraw the amount deposited by original appellant/Insurance Company.

2. Learned counsel for applicant submits that, applicants lost their father in an accident which occurred on 16.1.1993. Hence, they filed claim Application u/s 166 of the Motor Vehicle Act for sum of Rs.20,00,000/-. She submits that the Tribunal after considering the evidence on record, held that, claimants are

entitled sum of Rs.8,63,000/- by way of compensation with interest @ 7% p.a.

3. Learned counsel for applicant submits that as per their earlier civil application No.3017/2014, this Court by order dated 26.6.2015 permitted applicant no.1 Smt.Alka Shahaji Chondhe to withdraw sum of Rs.3,00,000/- with accrued interest and applicant no.2 Miss Anita Shahaji Chondhe-Rs.50,000/- with accrued interest without furnishing any security. This court by order dated 26.6.2015 granted liberty to the applicant nos. 3,4 and 5 to prefer appropriate application for withdrawal of amount and that to be decided on its own merits. He submits that applicant nos.3,4 and 5 now completed their education. He submits that they require said amount for future benefit. He submits that in the interest of justice, this Court be pleased to permit applicant nos.3,4 and 5 to withdraw the amount deposited by the Insurance Company.

4. On the other hand, learned counsel for appellant/Insurance Company vehemently opposed present application. He submits that if entire amount is withdrawn by respondent nos.3,4 and 5 then nothing will survive in the appeal. Therefore, there is no question of allowing present application.

5. It is to be noted that, in the present proceeding, applicant Nos.3,4 and 5 lost their father in an accident which occurred on 16.1.1993. Now these applicants completed their education,

hence, they require said amount for future benefits.

6. Considering these facts, I am of the opinion that claimant Nos.3,4 and 5 can be permitted to withdraw some amount with accrued interest without furnishing any security but subject to outcome of appeal.

7. Hence, the following order.

- a) Claimant No.3 Miss Amita Shahaji Chondhe; No.4- Master Vinay Shahaji Chondhe and No.5-Master Abhimanyu Shahaji Chondhe are permitted to withdraw Rs.50,000/- each, with accrued interest, without furnishing any security but subject to outcome of first appeal.
- b) Tribunal is directed to invest the balance amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.
- c) Civil application stands disposed of.
- d) No order as to cost.

(K.K.TATED, J.)