

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

**CIVIL APPLICATION NO.488 OF 2019
IN
FIRST APPEAL (ST.) NO.1503 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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Ms.Deepika Prabhala i/b M/s.Res Juris for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 10, 2019**

P.C.:

. Not on board. At the request of Advocate for the Applicant, matter is taken on board for urgent orders.

2 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 3.5.2018 passed by MACT, Thane in MACP No.535 of 2017.

3 The learned counsel for the Applicant submits that Applicants have already deposited entire awarded amount in the Tribunal. She submits that respondent original claimant filed execution application for recovery of entire awarded amount. She submits that if entire amount is withdrawn by the respondent original claimant then nothing will survive in the present proceeding. Hence, she has mentioned the matter for urgent orders.

4 It is to be noted that in an accident which occurred on 12.5.2017 original claimant nos.1 and 2 lost their daughter in law and claimant nos.3 and 4 their mother. On the date of accident, deceased was 34 years old. Hence, respondent original claimant filed application under section 166 of the Motor Vehicles Act, 1988 for compensation.

5 Considering the evidence on record, Tribunal held that claimants are entitled sum of Rs.23,99,600/- by way of compensation with interest @ 8% p.a. Considering the fact that claimant nos.1 and 2 are Senior Citizen and they have to maintain their grand children who are minor, they are entitled to withdraw some amount without furnishing any security during the pendency of the present First

Appeal. In any case, there is a delay on the part of Insurance Company in filing the present First Appeal. Hence, following order:

A) Civil Application is allowed in terms of prayer clause (b) which reads thus:

"b) Pending hearing and final disposal of the present First Appeal, the execution, implementation and operation of the Judgment and award dated 3.5.2018 passed by the Ld. Member, Motor Accident Claims Tribunal, Thane in MACP No.535/2017 may kindly be stayed."

B) Claimant no.1 Mahadev Babu Toraskar and claimant no.2 Sunita Mahadev Toraskar is entitled to withdraw sum of Rs.1,00,000/- each with accrued interest without furnishing any security.

C) Tribunal is directed to deposit remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same is continued till further orders.

D) Liberty granted to the Claimant to make appropriate Application for withdrawal of further amount and that Application be decided on its own merits.

E) Civil application stands disposed off accordingly.

(K.K.TATED, J.)