

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

FIRST APPEAL (ST)NO.2836/2015

WITH

**CIVIL APPLICATION NO.343/2016
IN
FIRST APPEAL(ST)NO.2836/2015**

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**CIVIL APPLICATION NO.344/2016
IN
FIRST APPEAL (ST)NO.2836/2015**

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. Deepika Prabhala i/b Res Juris for appellant.
Advocate Mrs. Urmila K. Sanil for Respondent no.1.
Advocate Mr.Subhash R. Samukhrao with C.S. Dalvi for Respondent no.2.

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

P.C.:

Not on board. At the request of learned advocate for appellant by preceipe dated 14.8.2019, matter is taken on production board for urgent orders.

2 Heard learned counsel for parties.

3 Learned Advocate for appellant submits that the matter is settled between the Insurance Company and Respondent no.1/original claimant. She tendered Consent Terms dated 16.8.2019.

4. Learned advocate Mrs.Urmila Sanil appearing for Respondent No.1 submits that Respondent No.1 Vishwanath Subodh Chadhari is present in the Court. Respondent no.1 enters the witness box. He admits contents of Consent Terms as well as execution thereof. Hence Consent Terms are taken on record and marked 'X' for identification which reads thus;

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

FIRST APPEAL NO. (L) 2836 OF 2015

IN

MACP No. 3425 of 2007

Reliance General Insurance Co. Ltd.	DIST. MUMBAI
	]
Through it's Manager	]
Having its office at 4 th floor, Chintamani Avenue,	]
Off Western Express Highway,	]
Near Virwani Industrial Estate, Goregaon (East),	]
Mumbai-400 063.	] ...Appellant
	(Ori. Opp. Party 2)

V/S.

- 1) Smt. Fulabai Bhimrao Galfade]
 Age : 66, Occ.Household, Residing at Bihari Tekadi]
 Road, Sunderkant Chowk, Poisar, Kandivali (E),]
 Mumbai-400 101.]
- 2) Mr. Ranvijay Haldhar Singh,]
 Age Adult, Occ. Nil, Residing at Room No. 4,]
 Sagar Chawl, Singh Estate, Samata Nagar,]
 Kandivli (East), Mumbai-400 101.]...Respondent
 (Respondent no. 1 being
 original applicant &
 Respondent no. 2 being original
 Opp. party no. 1 & Insured)

JOINT CONSENT TERMS

To,

**THE HON'BLE THE CHIEF JUSTICE AND
 THE HON'BLE PUISNE JUDGES OF THE
 HON'BLE HIGH COURT AT BOMBAY**

MOST RESPECTFULLY SHEWETH

- 1)** That, (1) Reliance General Insurance Co. Ltd., the Appellant (Original Opp. Party no. 2), (2) Mrs. Fulabai Bhimrao Gulfade, Respondent No. 1 (Original Applicant) A N D Mr. Ranvijay Haldhar Singh, Respondent No. 2 (Original Opp. Party No. 1) most respectfully and jointly submit as under:-

- a) That Mrs. Fulabai Bhimrao Galfade, the present Respondent no. 1 had filed the claim application no. 3425 of 2007 before the Motor Accident Claims Tribunal at Mumbai against Mr. Ranvijay Haldhar Singh, the Respondent no. 2, (original Opp. Party No. 1) and Reliance General Insurance Co. Ltd., the Appellant who is the original Opp. Party No. 2, for the grant of compensation on account of the injuries sustained in accident, dated 24.10.2007, wherein the motor cycle No. MH-02-BC-0190, owned by the Respondent No. 2 was involved.
- b) That the original claim application No. 3425 of 2007 was finally decided by the Hon'ble Tribunal, MACT, Mumbai by judgment on 10.10.2013 whereby the Respondent no. 2 and the present Appellant /Insurer hereinabove were held liable jointly and severally to pay the original applicant, the sum of Rs. 58,000/- including NFL amount and interest thereon at the rate of Rs. 7.5% p. a. and proportionate cost.
- c) That in the meantime, the Respondent No. 1 had filed Darkhast/Execution proceedings no. 44 of 2017 for recovery of decretal amount granted as per judgment and award, dated 10.10.2013 against the Appellant/ the Insurer and the same is pending before MACT, Mumbai.

- d) That the present Appellant had preferred First Appeal (L) no. 2836 of 2015 before the Hon'ble High Court challenging the judgment and award, dated 10.10.2013 passed by the Hon'ble MACT, Mumbai in MACP no. 3425/2007. The said First Appeal (L) No.2836 of 2015 is pending for final disposal as on date.
- e) That on receipt of notice in above Appeal from the Hon'ble High Court, the present Respondent no. 2 came forward to settle the matter amicably out of the Court with Respondent no. 1(Original Applicant). That as the present Respondent no. 2 has paid the entire decretal amount to the Respondent no. 1 in compliance of the judgment and award passed in MACP no. 3425/2007, the Respondent no. 1 do not wish to proceed with the Darkhast/Execution Application no. 44/2017 filed against the Appellant.

2) THUS THE PARTIES TO THE CONSENT TERMS HEREBY AGREE AS FOLLOWS:

- a) That the Respondent No. 1 (original applicant and executants) undertakes to withdraw Darkhast/Execution Application No. 44 of 2017 pending before the Motor Accident Claim Tribunal, Mumbai.
- b) That, neither the Respondent no. 1 nor the Respondent no. 2 shall

claim any monies or file any proceedings/suits/any other litigation against the appellant in any court/tribunal/forums etc. for recovery of monies in respect of compensation which is the subject matter of MACP no. 3425/2007 and Execution Application No. 44 of 2017.

3) IN VIEW OF THE AMICABLE SETTLEMENT BETWEEN THE PARTIES, THE APPELLANT PRAYS TO THIS HON'BLE COURT FOR PASSING SUITABLE ORDERS IN RESPECT OF FOLLOWING :

- a) That, the Appellant be allowed to withdraw First Appeal (L) no. 2836 of 2015 along with Civil Application No. 343 of 2016 and Civil Application No. 344 of 2016 pending before this Hon'ble Court.
 - b) That, the Appellant be allowed to withdraw the amount along with the accrued interest , till date lying with the Motor Accident Claim Tribunal, Mumbai which was deposited initially by the Appellant towards ad-interim stay order.
 - c) That, the Registrar of the Hon'ble High Court be directed to refund to the Appellant the amount deposited in this court towards statutory deposit along with accrued interest, if any.
 - d) That, suitable order in respect of refund of court fees be passed.
- Mumbai, dated this day of August, 2019.

(Adv. _____)
Advocate for the Appellant

(Adv. Alpana G. Shahare)
Advocate for the Respondent No.1

(Mrs. Fulabai Gulfade)
Respondent No. 1

(Adv. Subhash Samukhrao)
Advocate for the Respondent No.2

(Mr. Ranvijay H. Singh)
Respondent No. 2.

5 Learned Advocate for Respondent no.2, owner of the vehicle submits that they do not have any objection for accepting the Consent Terms.

6. Hence, the following order.

- a) First Appeal stands disposed of in terms of Consent Terms.
- b) Consent Terms be treated as part and parcel of Decree.
- c) Pending Civil application if any, stands disposed of.

(K.K.TATED, J.)