

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

CIVIL APPLICATION NO.1529 OF 2018

IN

FIRST APPEAL (ST) NO.3127 OF 2018

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.Rahul Mehta i/b M/s.KMC leegal Venture
for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 23, 2019**

P.C.:

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

2 Heard.

3 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 27.9.2017 passed by MACT, Nashik in MACP No.352 OF 2015 holding that Respondent original Claimants are entitled sum of Rs.23,80,328/- by way of

compensation along with interest @ 6% p.a.

4 The learned counsel for the Applicant submits that Respondent original Claimant filed Execution Application. He submits that if entire amount is recovered by the Respondent in Execution Application then nothing will survive in the present proceeding. The learned counsel for the Applicant submits that they have good chance of success in the present matter. He submits that he received instruction from the client that they are ready and willing to deposit entire awarded amount in the Tribunal on or before 31.05.2019. Statement is accepted.

5 It is to be noted that in the present proceeding, in an accident which occurred on 7.2.2015 Claimant no.1 lost her husband, Claimant nos.2 and 3 are minor and Claimant nos.4 and 5 are parents of the deceased.

6 Considering the submissions made by the learned counsel for the Applicant, the averments made in Civil Application and as Applicants are ready and willing to deposit entire awarded amount along with interest before the Tribunal on or before 31.05.2019, I am satisfied that the Applicant has made out a case for allowing the Civil Application, but at the same time, respondent/original claimants

are entitled to withdraw some amount without furnishing any security subject to outcome of the First Appeal. Hence, following order is passed:

A. Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit entire awarded amount along with interest in the Tribunal on or before 31.5.2019, failing which Civil Application shall stand dismissed without referring back to the court.

"(a) That this Hon'ble Court be pleased to stay the effect/execution/operation and implementation of the impugned Judgment and Award dated 27.09.2017 passed in M.A.C.T. Application No.352 of 2015 by SHRI G.P.DESHMUKH,, Member, MACT, NASHIK, DISTRICT : NASHIK."

B. If amount is deposited within stipulated time as stated hereinabove, Claimant no.1 Swati Narendra Kothari is entitled to withdraw 25% amount and Claimant no.4 Sumatilal Fulchand Kothari is entitled to withdraw Rs.1,00,000/- with accrued interest without furnishing any security but subject to outcome of the First Appeal.

C. Tribunal is directed to invest remaining awarded amount in fixed deposit of any nationalised bank initially for a period of one

year and same to be continued till further orders.

C. Liberty granted to the Claimant to make Application for withdrawal of further amount if they so desire, and that Application be decided on its own merits.

D. Civil application stands disposed of accordingly.

(K.K.TATED, J.)