

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

CIVIL APPLICATION NO.1216 OF 2019

IN

FIRST APPEAL (ST.) NO.8572 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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Mr.A.P. Kulkarni for the applicant

**CORAM : K. K. TATED, J
DATE : MARCH 27, 2019**

P.C.:

. Not on board. At the request of advocate for the Applicant, matter is taken on board for urgent order.

2 Heard.

3 By this Civil Application Applicant is seeking stay of the operation and implementation of the judgment and award dated 9.04.2018 passed by MACT, Mumbai in Motor Accidents Claim Petition No.405 of 2014 holding that Respondent Claimants except claimant no.4 is entitled total compensation of

Rs.39,17,152/- with 7% interest p.a. from the date of application till realization.

4 The learned counsel for the applicant submits that Respondent Claimant filed execution application for recovery of entire amount. He submits that if entire amount is recovered by the Respondent Claimant in Execution Application, then nothing will survive in the present proceeding. He submits that they have good chance of success in the present proceeding.

5 The learned counsel for the Applicant submits that, he received instruction from his client that, they are ready and willing to deposit entire awarded amount in the Tribunal within four weeks from today. Statement is accepted.

6 It is to be noted that in the present proceeding original Claimant nos.2 and 3 were minor when the Claim Petition was filed before MACT.

7 Considering these facts, I am of the opinion that original Claimant may be permitted to withdraw some amount without furnishing any security at present. Hence, following order is passed :

A Civil Application is allowed in terms of prayer clause (a) on the condition that

Applicant to deposit entire awarded amount along with interest in the Tribunal on or before 30.04.2019, failing which Civil Application shall stand dismissed without referring back to the court .

B If amount is deposited within stipulated time as stated hereinabove claimant no.1 Ashwin Abhay Sawant is entitled to withdraw 20% amount with accrued interest without furnishing any security and claimant no.5, Suhasini Sadanand Sawant is entitled to withdraw 10% amount along with interest without furnishing any security.

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

D Liberty granted to the Respondent original Claimant if they so desire to prefer appropriate application for withdrawal of the further amount and that be decided on its own merits.

E Registry is directed to transfer a sum of Rs.25,000/- along with accrued interest, if any, deposited by the applicant at the time of filing First Appeal to the Motor Accident Claims Tribunal, Mumbai in the account of M.A.C.P. No. 405 of 2014 as early as possible.

F Civil Application stands disposed of
accordingly.

(K.K.TATED, J.)