

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

**CIVIL APPLICATION (ST.) NO.10950 OF 2019**

**IN**

**FIRST APPEAL (ST.) NO.10947 OF 2019**

|                                                                                                                             |                           |
|-----------------------------------------------------------------------------------------------------------------------------|---------------------------|
| Office Notes, Office<br>Memoranda of<br>Coram,<br>Appearances,<br>court's orders or<br>directions and<br>Registrar's orders | Court's or Judge's orders |
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Mr.Pranil Sonawane for the applicant

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

**P.C.:**

. Heard.

2 By this Civil Application Applicant is seeking stay of the operation and implementation of the impugned judgment and award dated 6.1.2018 passed by MACT, Nashik in MACP No.756 of 2013 awarding sum of Rs.25,38,520/- to the Respondent original Claimant along with 9% interest p.a. from the date of application till realization of entire amount.

3 The learned counsel for the Applicant submits that Respondent original Claimant

filed Execution Application. Hearing of Execution Application is over and matter is reserved for orders. Hence, there is urgency.

4 The learned counsel for the Applicant submits that he received instruction from the applicants that they are ready and willing to deposit entire awarded amount on or before 2.5.2019.

5 The learned counsel for the Applicant submits that in the present proceeding, they are challenging the impugned judgment and award passed by Tribunal on the ground that ST Bus driver was not negligent at the time of accident. He submits that otherwise also, Tribunal has awarded compensation on higher side. Hence, they have good chance of success in the present matter.

6 The learned counsel for the Applicant submits that in the interest of Justice, this Hon'ble court be pleased to stay the operation and implementation of the impugned judgment and award till the hearing and final disposal of the First Appeal.

7 In the present proceeding, in an accident which occurred on 11.11.2010, Claimant no.1 lost her husband Ghanshyam Vishwanath Bera and Claimant no.2 lost her father. Hence, they filed application under section 166 of the

Motor Vehicle Act for compensation of Rs.25 lacs.

8 The Tribunal have considered the evidence on record and awarded sum of Rs.25,38,520/- with interest. As the hearing of First Appeal will require some time and as there is a delay in filing First Appeal, I am of the opinion that Respondent original Claimant be permitted to withdraw some amount during the pendency of the present First Appeal without furnishing any security. 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 with interest in the Tribunal on or before 2.5.2019, failing which Civil Application shall stand dismissed without referring back to the court
- b) If amount is deposited within stipulated time as stated hereinabove, Respondent original Claimant no.1 Tanushri Ghanshyam Bera is entitled to withdraw Rs.5,00,000/- and Claimant no.2 Priyanka @ Tulsi Ghanshyam Bera is entitled to withdraw Rs.1,00,000/- with accrued interest without furnishing any security subject to outcome of the First Appeal.
- c) Tribunal is directed to deposit 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.

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.)**