

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

**CIVIL APPLICATION NO.2704 OF 2019
IN
FIRST APPEAL (ST.) NO.13563 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.Nisha Gandhi I/b M/s/.Res Juris for the applicant

**CORAM : K. K. TATED, J
DATE : AUGUST 14, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the judgment and award dated 11.10.2018 passed by MACT, Satara in MACP No.32 of 2014 holding that Respondent original Claimants are entitled compensation of Rs.24,32,500/- within interest @ 7.5% p.a.

3 The learned counsel for the Applicant submits that by this First Appeal, they are

challenging the impugned judgment and award passed by the Tribunal on the ground of quantum. She submits that Respondent original Claimant failed to prove income of the deceased. Hence, they have good chance of success in the present matter.

4 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 passed by the Tribunal. She submits that she received instruction from her client that, they are ready and willing to deposit entire awarded amount within six weeks from today. She submits that if entire amount is withdrawn by the Respondent Claimant, then nothing will survive in the present proceeding.

5 It is to be noted that in the present proceeding in an accident which occurred on 17.4.2013 Claimant no.1 lost her husband who was 52 years old on that date. Claimant nos.2 to 4 are minor children of deceased Suresh Harishchandra Makar. Deceased was doing business of Mandap decorations and sound services so also he was working as a painter. From the business of mandap decoration, the deceased was earning Rs.20,000/- to

Rs.40,000/- and from painting work, he was earning Rs.9,000/- to Rs.10,800/- per month. Apart from that, Claimant placed on record salary certificate of deceased at Exhibit 51 dated 17.8.2013. Claimant no.1 is household wife. She has to maintain her 3 minor children.

6 Considering these facts, and as there is a delay on the part of Applicant to file present First Appeal before this court, I am of the opinion that Claimant no.1 can be permitted to withdraw some amount for herself as well as for welfare of minor children. Hence, following order is passed :

A. Civil Application is allowed in terms of prayer clause (b) on condition that Applicant to deposit entire awarded amount in the Tribunal within six weeks from today, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (b) reads thus:

“b) Pending hearing and final disposal of the First Appeal the execution, implementation and operation of judgment and award dated 02.08.2018 passed by the Learned Member, Motor Accident Claims Tribunal, Mumbai in MACP No.2601 of 2012 may kindly be

stayed.”

B. If amount is deposited by the Applicant in that case, Respondent original Claimant no.1, Maya Suresh Makar is entitled to withdraw Rs.10,00,000/- with accrued interest without furnishing any security but subject to out come of the First Appeal.

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 Applicants to prefer an appropriate Application for withdrawal of further amount, if they so desire, which will be decided on its own merits.

E. Civil Application stands disposed of accordingly.

F. No order as to costs.

(K.K.TATED, J.)