

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

**CIVIL APPLICATION NO.3591 OF 2016
IN
FIRST APPEAL (ST.)16021 OF 2016**

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.Poonam Mittal for the applicant

None for the respondent

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

P.C.:

. Heard.

2 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 6.2.2016 passed by MACT, Ichalkaranji in MACP No.68 of 2011 holding that Respondents Claimants are entitled sum of Rs.16,87,422/- by way of compensation with interest @ 7.5% p.a. from the

date of petition, till realisation of entire amount.

3 The learned counsel for the Applicant submits that if entire amount is recovered by the Respondent Claimant by filing Execution Application then nothing will survive in the present proceedings. She submits that they have good chance of success in the present proceedings. She submits that Tribunal has awarded compensation on higher side in favour of Respondent original Claimant. She further submits that she received instruction from her client that they are ready and willing to deposit entire amount in the Tribunal within four weeks from today. She further 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.

4 In the present proceeding, in an accident which occurred on 10.8.2011, Claimant no.1 lost her husband Subhas Jotiram Kumbhar who was driving truck bearing MH-13-R-1684. Claimant nos.2, 3 and 4 are students who are taking education.

5 Considering these facts, I am of the opinion that Respondents may be permitted to withdraw some amount without furnishing any security at present.

6 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application and as Applicant is ready and willing to deposit entire awarded amount in the Tribunal, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

7 Hence, the following order:

a) Operation and implementation of the impugned judgment and decree dated 6.2.2016 passed by MACT, Ichalkaranji, in MACP No.68 of 2011 is stayed till the hearing and final disposal of the First Appeal on condition that Applicant to deposit entire awarded amount in the Tribunal within four weeks from today failing which the Civil Application shall stand dismissed without further reference to the court.

b) If amount is deposited, Claimant no.1, Shobha Subhash Kumbhar, Claimant no.2, Sonali Subhash Kumbhar, Claimant no.3, Shnehal Subhash Kumbhar is entitled to withdraw 15% of the amount of compensation each without furnishing any security but subject to outcome of the First Appeal.

c) Tribunal is directed to deposit remaining 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 remaining amount and that Application be decided on its own merits.

e) Civil application stands disposed off accordingly.

(K.K.TATED, J.)