

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

CIVIL APPLICATION NO.2050/2019
IN
FIRST APPEAL (STAMP)NO.14631/2019

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.D.S. Joshi, advocate for applicant.
None for respondent.

CORAM : K.K.TATED, J.
DATED : JUNE 11, 2019

P.C.

Not on board. On the basis of preceipe filed by learned advocate for applicant, the matter is shown on production board for urgent orders.

2. Heard Mr.D.S.Joshi, learned advocate for applicant.

3. By this civil application, the applicant/Insurance Company is seeking stay of operation and implementation of judgment and award dated 21.4.2018, passed by Motor Accident Claims Tribunal Satara, in M.A.C.P. No.207/2013 holding that, respondents/claimants are entitled sum of

Rs.39,89,008/- by way of compensation with interest @ 7.50% per annum from the date of application till full realization of amount.

4. Learned counsel for applicant submits that respondents/claimants filed execution application for recovery of entire awarded amount. He submits that if entire amount is recovered by respondents/claimants in execution application then, nothing survives in the present proceedings.

5. Learned counsel for applicant submits that the Tribunal failed to consider the fact that the driver of the offending vehicle was not holding valid license. Even those facts are proved by the applicant by examining witnesses on the basis of the documents received from the office of R.T.O. Therefore, the applicants are not liable to pay any compensation. He submits they have chance of success in the present proceedings. He submits that in the interest of justice, this Court be pleased to stay operation and implementation of impugned judgment and award till hearing and final disposal of first appeal.

6. Learned counsel for applicant submits that he received instructions from his client that they are ready and willing to deposit entire amount in Tribunal within 4 weeks from today. Statement is accepted.

7. In the present proceeding, in an accident which occurred on 02.01.2012, respondents lost their son Udayan Dilip Sawant. At the time of accident he was 23 years old. He was doing service as a Constable in BSF in 15 Battalion and was earning Rs.21,700/- per month by way of salary. After prolonged medical treatment on 14.2.2017 Udayan Sawant died. Therefore, the respondents/claimants filed Claim Petition u/s 166 of the Motor Vehicle Act 1988.

8. Considering the facts that both parents of the deceased are senior citizens, I am of the opinion that they may be permitted to withdraw some amount without furnishing any security.

9. Hence, the following order.

a) Civil application is allowed in terms of prayer clause (a) which is reproduced as below on condition that, applicant/Insurance

Company to deposit entire awarded amount alongwith the interest in the Tribunal on or before 20.07.2019 failing which, the civil application shall stand dismissed without referring back to the Court.

b) If amount is deposited within stipulated time as stated hereinabove, the respondents/claimants Pushpa Dilip Sawant and Dilip Vishnu Sawant are entitled to withdraw 15% amount of compensation each without furnishing any security but, subject to outcome of first appeal.

c) The Tribunal is directed to invest remaining amount in a Fixed Deposit in any Nationalized bank, initially for a period of one year and thereafter same be continued till further orders.

d) Liberty granted to respondents/claimants if they so desire to prefer appropriate application for withdrawal of further amount and that application will be decided on its own merits.

e) Civil application stands disposed of.

(K.K.TATED, J.)

