

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

**CIVIL APPLICATION NO.2972/2019
IN
FIRST APPEAL (ST)NO.18095/2019**

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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Advocate Miss Aditi Sharma i/b Res Juris for applicant.

**CORAM : K. K. TATED, J.
DATE : AUGUST 23, 2019.**

P.C.:

Not on board. At the request of learned advocate for Miss Aditi Sharma for applicant, matter taken on production board for urgent orders.

2 Heard learned counsel for applicant.

3. By this civil application, applicant/Insurance Company is seeking stay of operation and implementation of judgment and award dated 02.02.2019 passed by MACT, Pune in MACP No.350/2016 holding that respondents/claimants are entitled sum

of Rs.44,07,110/- by way of compensation with interest @ 7% pa. from the date of claim petition till its realization.

4. Learned counsel for applicant submits that they already deposited entire awarded amount with interest in the Tribunal on 16.4.2019 by issuing cheque No.971476 drawn on Axis Bank, Pune of Rs.52,06,287/-. She submits that, if entire amount is recovered by the respondent by filing execution application, then nothing will survive in the present proceeding. She submits that by this first appeal they are challenging judgment and award passed by the Tribunal on quantum only. She submits that they have good chance of success. She submits that in the interest of justice, this court be pleased to stay the operation and implementation of the impugned judgment and award, during the pendency of first appeal.

5. It is to be noted that, in an accident which occurred on 17.4.2019 claimant no.1 lost her husband Kiran aged 29 years At that time, he was doing business. He was earning net profit of Rs.4,000/- p.m. Hence, claimant no.1 and minor children alongwith mother of the deceased filed claim petition u/s 166 of Motor Vehicle Act claiming sum of Rs.57,00,000/- by way of compensation with interest. The tribunal considering the evidence on record held that claimants are entitled sum of Rs.44,07,110/- with interest @ 7% pa. The Tribunal directed to invest 35% amount of claimant no.2 being minor, in Fixed Deposit in

Nationalized Bank till he attains age of majority.

6. Considering these facts, I am of the opinion that claimants can be permitted to withdraw some amount without furnishing any security during the pendency of present first appeal. Hence, the following order.

A) Civil application is allowed in terms of prayer clause (b) which is reproduced as below

(b) Pending hearing and final disposal of first appeal the execution, implementation and operation of judgment and award dated 2.2.2019 passed by the Learned Member, Motor Accident Claims Tribunal, Pune, in MACP no.350/2016 may kindly be stayed.

B) Claimant No.1 Monika Kiran Kudale is permitted to withdraw 25% amount of total compensation with interest without furnishing any security.

C) Claimant no.3 Smt. Kanchan Balasaheb Kudale is permitted to withdraw 10% amount of total compensation with accrued interest without furnishing any security.

D) 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.

E) 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 is disposed of.

F) No order as to cost.

(K.K.TATED, J.)