

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

**CIVIL APPLICATION NO.722 OF 2019
IN
FIRST APPEAL (ST.) NO.20867 OF 2018**

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.Kavita Anchan i/b M/s.M.V.Kini and Co. for
the applicant

Ms.Varsha Chavan for the respondent nos.1 to
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**CORAM : K. K. TATED, J
DATE : APRIL 4, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking stay of the operation and implementation of the judgment and award dated 13.07.2017 passed by MACT, Mumbai in Application No.1443 of 2010.

3 The learned counsel for the Applicant submits that Applicants are ready and willing to deposit entire awarded amount in the

Tribunal but she requires 8 weeks time to do so.

4 It is to be noted that in the present proceedings, the impugned judgment and award was passed on 13.07.2017. There was delay on the part of Applicant to file the present First Appeal by 234 days. Therefore, there is no question of granting 8 weeks time to deposit entire amount. At the most Applicant is entitled 2 weeks for depositing entire awarded amount.

5 In the present proceedings, in an accident which occurred on 22.3.2010 original Claimant no.1 lost her husband. Now she has to maintain her daughter and son as well as mother in law. Therefore, claimant can be permitted to withdraw some amount. 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 on or before 18.04.2019 in the Tribunal failing which the Civil Application shall stand dismissed without further reference to the court. Prayer clause (a) reads thus:

"a) That pending the hearing and final disposal of the present First Appeal, the

operation, effect, implementation and execution of the Judgment and Decree dated 13.07.2017 passed by the Ld.Motor Accident Claims Tribunal at Mumbai in Application No.1443 of 2010 be stayed."

B) Respondent original Claimant Nirmala Devdas Shetty is entitled to withdraw 20% amount of total compensation without furnishing any security but subject to outcome of the First Appeal.

C) Respondents original claimants Diksha Devdas Shetty and Sharada Sanjeeva Shetty are entitled to withdraw 10% amount each of total compensation without furnishing any security but subject to outcome of the First Appeal.

D) Tribunal is directed to deposit remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same is continued till further orders.

E) Liberty granted to the Claimant to make appropriate Application for withdrawal of further amount and that Application be decided on its own merits.

F) Civil application stands disposed off accordingly.

(K.K.TATED, J.)