

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

**CIVIL APPLICATION NO.3013/2014
in
FIRST APPEAL (ST) NO.32180/2013**

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 Mrs.Varsha Chavan for applicant.

**CORAM : K. K. TATED, J.
DATE : AUGUST 16, 2019.**

P.C.:

Heard learned counsel for applicant.

2. By this civil application, applicant/Insurance Company is seeking stay of operation and implementation of judgment and award dated -dated 12.6.2013 passed by MACT, Khed in MACP No.32/2010 holding that respondents/claimants are entitled sum of Rs.9,90,100/- by way of compensation with interest 6% pa.

3. Learned counsel for applicant submits that the Tribunal failed to consider 50% negligency on the part of other side. If

entire amount is recovered by the respondent by filing execution application, then nothing will survive in the present proceeding. He submits that they have good chance of success. He submits that, pending the hearing and final disposal of first appeal, operation and implementation of impugned judgment and award be stayed.

4 Learned counsel for applicant submits that she received instructions from her client that they are ready to deposit entire awarded amount within 4 weeks from today. Statement accepted.

5 It is to be noted that, in the present proceeding in an accident which occurred on 23.12.2008, respondents/claimants lost their mother. At that time she was working as a Teacher and getting salary of Rs.28,883.- . Hence respondents filed application under 166 of the Motor Vehicle Act for compensation of Rs.18,80,000/-. The Tribunal has awarded sum of Rs.9,99,100/- only.

6 Considering these facts, I am of the opinion that respondents/original claimants can be permitted to withdraw some amount during the pendency of present first appeal. Hence, the following order.

A) Civil application is allowed in terms of prayer clause (a) which is reproduced as below on condition that, applicant to deposit the

entire awarded amount with interest in the Tribunal on or before 17.9.2019 failing which civil application shall stand dismissed without referring back to the court.

a) Pending the hearing and final disposal of this appeal, the implementation and/or the execution of the judgment and award dated 12.6.2013 passed by the learned Member, of MACT, Khed, Shri Pradeep H. Kale, in MACT Application No.32/2010 directing the appellant insurance company to pay a sum of Rs.6,99,500/- be kindly stayed.

B) If the entire amount is deposited within stipulated time, both the claimants are entitled to withdraw 25% amount each with accrued interest, without furnishing any security but subject to outcome of first appeal.

C) Tribunal is directed to invest balance 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 is disposed of.

F) No order as to cost.

(K.K.TATED, J.)

