

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

**CIVIL APPLICATION NO. 4401 OF 2018
IN
FIRST APPEAL NO. 270 OF 2017**

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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Bhalchandra S. Shinde for Applicants.
Devendranath S. Joshi for Respondent.

**CORAM : K. K. TATED, J
DATE : OCTOBER 22, 2019.**

P.C.:

Heard.

2. By this Civil Application, the Applicants/Original Claimants are seeking permission to withdraw the amount deposited by the Appellant-Insurance Company to satisfy the Judgment and award dated 03/12/2015 passed by the Motor Accident Claims Tribunal, Baramati in Motor Accident Claim Petition No.19/2012.

3. The Learned Counsel for the Applicants

submits that, in the accident which occurred on 22/08/2011, the Applicants lost their young son Eknath who was 23 years old on the date of accident. He submits that the deceased Eknath was working as Marketing Manager at Tejasvi Biofert and drawing salary of Rs. 5,000/-. He submits that, the Applicants are agriculturist and it is very difficult for them to maintain. Hence, they have filed the present application for withdrawal of the amount. He submits that if the Application is not allowed, irreparable loss will cause to them.

4. On the other hand, the Learned Counsel for the Appellant-Insurance Company submits that, if the entire amount is withdrawn by the claimants, then nothing will survive in the present proceeding. He submits that by this First Appeal, they are challenging the Judgment and award passed by the Tribunal on several grounds including quantum, breach of the terms and conditions of the Insurance Policy and negligence, on the part of the deceased. Therefore, there is no question of permitting the Applicants to withdraw the amount.

5. It is to be noted that, in the present proceeding, in the accident which occurred on

22/08/2011, the Applicants lost their young son of 23 years old. The Applicants are laborers and doing agricultural activities.

6. Considering these facts, I am of the opinion that, the Applicants can be permitted to withdraw some amount during the pendency of the First Appeal without furnishing any security but subject to outcome of the First Appeal. Hence, the following order is passed:

a. The Applicant No. 1 **Gangubai Dilip Bhosale** and the Applicant No. 2 **Dilip Rajaram Bhosale** are entitled to withdraw a sum of Rs. 3,00,000/- each with accrued interest without furnishing any security but subject to outcome of the First Appeal.

b. The Tribunal is directed to invest the remaining amount in a fixed deposit of any Nationalized Bank, initially for a period of one year which shall be renewed from time to time till further orders.

c. Civil Application stands disposed of accordingly.

d. No order as to costs.

(K.K.TATED, J.)