

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

**CIVIL APPLICATION NO.1173 OF 2019
IN
FIRST APPEAL (ST) NO.32016 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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Mr.Rahul Mehta i/b M/s.KMC Legal Venture
for the applicant

**CORAM : K. K. TATED, J
DATE : JULY 26, 2019**

P.C.:

. Not on board. At the request of Advocate for the Applicant, matter is taken on production board for urgent orders.

2 Heard.

3 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the judgment and award dated 30.11.2017 passed by MACT, Gadhinglaj in MACP No.25 of 2014 holding that Respondent original Claimants are entitled

sum of Rs.,39,85,000/- by way of compensation with interest @ 9% p.a.

4 The learned counsel for the Applicant submits that in the present proceeding, Tribunal failed to consider the fact that on the date of accident, driver of the offending vehicle was not holding valid licence. In support of this contention, he relies on paragraph 26 of the impugned judgment and decree. He submits that they have good chance of success in the present proceeding.

5 The learned counsel for the applicant submits that if entire amount is recovered by the Respondent original Claimant by filing execution application then nothing will survive in the present proceeding. He submits that he received instruction from his client that, Applicant Insurance Company is ready and willing to deposit entire awarded amount in the Tribunal with interest within four weeks from today. Statement is accepted.

6 It is to be noted that in the present proceeding in an accident which occurred on 13.1.2015 Claimant no.1 lost her husband. Therefore, she filed Claim Petition under section 166 of Motor Vehicle Act 1985 claiming sum of Rs.11,45,800/- by way of compensation with interest. Tribunal after considering the

evidence on record held that Claimants are entitled sum of Rs.39,85,000/- with interest. Claimant nos.2, 3 and 4 are minors. Therefore, there is no question of permitting them to withdraw any amount. As Claimant no.1 has to maintain three minor children, I am of the opinion that she may be permitted to withdraw some amount during the pendency of the present First Appeal. In any case, there is a delay on the part of Insurance Company to file present First Appeal before this court. 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 in the Tribunal on or before 23.08.2019, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (a) reads thus:

"a. That this Hon'ble Court be pleased to stay the effect/execution/operation and implementation of the Judgment and Award dated 30.11.2017 passed in M.A.C.T. Application No.25 of 2014 by A.S.PRATINIDHI - Member, MACT, GADHINGLAJ @ GADHINGLAJ."

B. If amount is deposited within stipulated time as stated hereinabove, Respondent original Claimant no.1, Sarika W/o Santosh Kapase is entitled to withdraw sum of Rs.15,00,000/- with accrued interest without furnishing any security subject to outcome of the First Appeal.

C. Tribunal is directed to invest the remaining amount in fixed deposit of any nationalized bank initially for a period of one year and same be continued till further orders.

D. Liberty granted to the Applicant to make appropriate application for withdrawal of amount and that be continued till further orders.

E. Civil Application stands disposed of accordingly.

F. Registry is directed to transfer the amount of Rs.25,000/- along with accrued interest, if any, deposited by the Applicant at the time of filing First Appeal to the MACT, Kolhapur in the account bearing MACP No.25 of 2014.

(K.K.TATED, J.)