

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

CIVIL APPLICATION NO.935 OF 2019

IN

FIRST APPEAL NO.148 OF 2015

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.T.S.Ingale for the applicant
Mr.D.S.Joshi for the respondent

**CORAM : K. K. TATED, J
DATE : APRIL 4, 2019**

P.C.:

. Heard.

2 By this Civil Application, Applicant is seeking permission to withdraw the amount deposited by the appellant Insurance Company in the present proceedings.

3 Learned counsel for the Applicant submits that in an accident which occurred on 22.07.2006 Applicant no.1 lost son. On the date of accident the deceased was 27 years old and he was serving as Associate with M/s.Wipro Speetramind Services Pvt. Ltd. He

was earning Rs.10,000/- per month.

4 The learned counsel for the Applicant submits that, Applicant may be permitted to withdraw the said amount, as the same is required for day to day expenses. He further submits that Applicant no.2 is unmarried and stays with Applicant no.1 only. He further submits that Applicant no.1 is not keeping well and therefore, they require some amount for medical expenses. In support of his contention, learned counsel for the Applicant relies on paragraph nos.2 and 3 of Civil Application.

5 The learned counsel for the Appellant submits that if entire amount is withdrawn by the Applicant, then nothing will survive in the present proceeding. He submits that Applicant may be directed to provide solvent security, if they are permitted to withdraw entire amount.

6 Considering the submissions made by the learned counsel for the Applicant and the reason disclosed in paragraph nos.2 and 3 of Application, I am satisfied that the Applicant has made out a case for withdrawal of 50% amount as under:

a) Applicant no.1, Babulal Dharamchand Jain is entitled to withdraw 35% of total amount deposited by Insurance Company and Applicant no.2 Santoshkumari Babulal Jain is

entitled to withdraw 15% of total amount deposited by Insurance Company without furnishing any security but subject to outcome of the First Appeal.

b) Civil application stands disposed off accordingly.

c) No order as to costs.

(K.K.TATED, J.)