

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

CIVIL APPLICATION NO.1483 OF 2018

IN

FIRST APPEAL (ST.) NO.36029 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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Ms.Poonam Mital for the applicant

None for the respondent

CORAM : K. K. TATED, J

DATE : JULY 1, 2019

P.C.:

. Heard.

2 By this Civil Application, Applicant Insurance Company is seeking stay to the operation and implementation of the impugned judgment and award dated 14.12.2016 passed by MACT, Thane in Application No.170 of 2012 holding that Respondents original Claimants are entitled sum of Rs.16,53,000/- by way of compensation with interest @9% p.a.

3 The learned counsel for the Applicant

submits that they have good chance of success in the present proceedings. He submits that if entire amount is recovered by the Respondent Claimant in Execution Application then nothing will survive in the present Civil Application. She submits that Applicants are ready and willing to deposit entire awarded amount with interest in the Tribunal within 3 weeks from today. Statement is accepted.

4 In the present proceedings, in an accident which occurred on 17.11.2010, Claimant no.1 lost her husband. On the date of accident, he was 26 years old. He was working for Top Enterprises, Navi Mumbai Thane on monthly salary of Rs.7,000/-. Claimant nos.2 and 3 are minors. The Tribunal after considering the evidence on record held that Claimants are entitled sum of Rs.16,53,000/- by way of compensation.

5 The learned counsel for the Applicant submits that they have mainly filed the present First Appeal on quantum. He submits that Tribunal has awarded compensation in favour of Respondent on higher side.

6 It is to be noted that Claimant no.1 is housewife and she has to look after both the minor children. Apart from that, there is a delay on the part of the Applicant to file the

present First Appeal before this court.

7 Considering these facts, I am of the opinion that Respondent Claimant no.1 can be permitted to withdraw some amount without furnishing any security during the pendency of the present First Appeal.

8 Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application, I am satisfied that the Applicant has made out a case for allowing the present Civil Application. Hence, following order:

A. Civil Application is allowed in terms of prayer clause (a) on condition that Applicant to deposit entire awarded amount along with interest in the Tribunal on or before 31.07.2019, failing which, Civil Application shall stand dismissed without referring back to the court. Prayer clause (a) reads thus:

"(a) "That pending the hearing and final disposal of the First Appeal the Order and Judgment passed by the Hon'ble Judge S.M.Gavhane, Chairman, MACT, Thane, in application MACP No.170 of 2012 dated 14th December, 2016, be stayed."

- B. Claimant no.1, Rupa Ganesh Chetri is entitled to withdraw sum of Rs.4,00,000/- with accrued interest without furnishing any security subject to outcome of the First Appeal.
- C. Tribunal is directed to invest remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till further orders.
- D. Liberty granted to the Claimant to make appropriate Application for withdrawal of further amount and that Application be decided on its own merits.
- E. Civil application stands disposed of accordingly.
- F. No order as to costs.

(K.K.TATED, J.)