

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

CIVIL APPLICATION NO.1178 OF 2019

IN

FIRST APPEAL (ST) NO.34885 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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Mrs. Shalini Shankar for the applicant

**CORAM : K. K. TATED, J
DATE : APRIL 23, 2019**

P.C.:

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

2 Heard.

3 By this Civil Application, Applicant Insurance Company is seeking stay of the operation and implementation of the impugned judgment and award dated 7.10.2017 passed by MACT, Nashik in MACP No.62 of 2015 holding that Respondent original Claimants are entitled sum of Rs.8,65,000/- by way of

compensation along with interest @ 7% p.a.

4 The learned counsel for the Applicant submits that Respondent original Claimant filed Darkhast Application No.5 of 2018 for recovery of entire amount. He submits that in the present proceeding, executing court issued attachment warrant. Hence, there is urgency.

5 The learned counsel for the Applicant submits that he received instruction from the client that they are ready and willing to deposit entire awarded amount in the Tribunal on or before 31.05.2019. Statement is accepted.

6 The learned counsel for the Applicant submits that if entire amount is withdrawn by the Respondent Claimant in execution application, then nothing will survive in the present proceeding. He submits that they have good chance of success in the present matter. Hence, pending the hearing and final disposal of the First Appeal, this Hon'ble Court be pleased to stay the Judgment and Award passed by Tribunal.

7 In the present proceeding, in an accident which occurred on 05.02.2015, respondent original Claimant no.1 lost her husband. Considering the fact that claimant no.1 have to maintain two minor children as well as

mother in law, I am of the opinion that Respondent original Claimant can withdraw some amount without furnishing any security.

8 Considering the submissions made by the learned counsel for the Applicant, the averments made in Civil Application and as Applicants are ready and willing to deposit entire awarded amount along with interest before the Tribunal on or before 31.05.2019, I am satisfied that the Applicant has made out a case for allowing the Civil Application. 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 along with interest in the Tribunal on or before 31.5.2019, failing which Civil Application shall stand dismissed without referring back to the court. Prayer clause (a) reads thus:

"(a) Pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be please to stay the effect, implementation and or execution of the impugned Judgment and order dated 07/10/2017 passed by the Hon'ble Court of Member, in Motor Accident Claim Petition No.62 of 2015."

- B. Respondent Claimant no.1, Bebi Balasaheb Jadhav is entitled to withdraw 30% amount without furnishing any security but 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 is continued till further orders.
- D. Liberty granted to the respondents / claimants to make application for withdrawal of the further amount and that application be decided on its own merits.
- E. Civil application stands disposed of accordingly.

(K.K.TATED, J.)