

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

**CIVIL APPLICATION (ST.) NO. 36572 OF 2017
IN
REJECTION CASE NO. 1476 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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Varsha Chavan for applicant.

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

P.C.:

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

2. The Learned Counsel for the Applicant submits that the Respondents/Original Claimants filed Execution Application for recovery of the entire amount. Hence, there is urgency. She submits that, the present First Appeal was dismissed in view of conditional order dated 31/07/2018 passed by the Learned Registrar (Judicial-II). She submits that this Court allowed the Civil Application No.

3499/2019 and the First Appeal restored on file for hearing on its own merits.

3. The Learned Counsel for the Applicant submits that, in the present proceeding, the Motor Accident Claims Tribunal, Pune passed the Judgment and award dated 10/08/2016 holding that the Claimants are entitled to a sum of Rs. 25,90,150/- by way of compensation with interest @ 9% p.a. She submits that, if the entire amount is recovered by the Respondents/Original Claimants in Execution Application, then nothing will survive in the present proceeding. She submits that, she has received instructions from her client that they are ready and willing to deposit the entire awarded amount with accrued interest in the Tribunal on or before 08/11/2019. The statement is accepted.

4. It is to be noted that, in the present proceeding, in the Accident which occurred on 23/09/2009, the Claimant No.1 lost her husband who was serving in Police Department of Maharashtra Government and his monthly salary was Rs.15,237/-. Original Claimant Nos. 2 and 3 are minors and Claimant No. 4 is the father of the deceased.

5. Considering these facts and as there is delay of 197 days in filing the First Appeal, I am of the opinion that Claimants can be permitted to withdraw 50% amount as per their shares without furnishing any security. Hence, the following order:

a. The Civil Application is allowed in terms of prayer Clause (a) on a condition that the Applicant to deposit the entire awarded amount with accrued interest in the Tribunal on or before 08/11/2019, failing which, Civil Application shall stand dismissed without further reference to the Court.

Prayer clause (a) reads thus:

“a. That pending the hearing and final disposal of this appeal, the implementation and/or the execution of the Award dated 10th August, 2016 passed by Mr. R. H. Mohammad, Member, MACT, Pune, in MACT application No. 1111/2009 be kindly stayed;”

b. If the amount is deposited within the time, the Respondents/Original Claimants are permitted to withdraw 50% amount along with accrued interest as per their share without furnishing any security but subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the amount in fixed deposit of any Nationalized bank, initially for a period of one year and same to be continued till further order.

d. Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of amount and that to be decided on its own merits.

e. The Registry is directed to transfer a sum of Rs.25,000/- deposited by the Applicant at the time of filing of First Appeal along with accrued interest, if any, to the MACT, Pune in account of Application No. 1111/2009, immediately.

f. Civil Application stands disposed of accordingly.

g. No order as to costs.

(K.K.TATED, J.)