

IN THE HIGH COURT OF FIJI
AT SUVA
CIVIL JURISDCITION

Civil Action No. 236 of 2023

BETWEEN: **SUSHILA WATI** also known as **SUSHILA WATI PRASAD** of 35
Cornelian Avenue, Eagle Vale, NSW, 2558, Australia, Domestic Duties as
the Administratrix of the Estate of Chandrika Prasad also known as Babu
also known as Bob.

PLAINTIFF

AND: **DOCTOR AMI CHANDRA** and **RITA KIRAN CHANDRA** both of 39
Levuka Street, off Bureta Street, Samabula, Suva, Fiji Islands, Medical
Doctor and Company Director respectively.

DEFENDANTS

Representation

Plaintiff: Mr. T. Tuitoga & Mr. M.V.D. Ragigia (Haniff Tuitoga).

Defendants: Mr. D. Singh (Daniel Singh Lawyer).

Date of Hearing: 10th June 2025.

Ruling

A. Introduction

[1] The Defendants have filed summons for stay of execution of judgment pending appeal to Fiji Court of Appeal. The summons is filed with an affidavit in support of the Defendants. An affidavit in reply of Vinesh Prasad Daniel was filed. Mr. Daniel is the son of the Plaintiff.

[2] On 31st January 2025 I had given judgment in favour of the Plaintiff. I had ordered as follows:

- “(a) The Defendants are to pay the Plaintiff a total sum of AUD \$100,745.00 for Mr. Chandrika Prasad’s evacuation and funeral costs.*
- (b) The Defendants are to pay the Plaintiff, FJD \$20,000.00 as damages under the Law Reform (Miscellaneous Provisions Act (Death and Interest) Act 1935.*
- (c) The Defendants are to pay the Plaintiff, FJD \$20,000.00 as damages under Compensation to Relatives Act 1920.*
- (d) The Defendants are to pay the Plaintiff, FJD \$50,000.00 as general damages for pain and suffering.*
- (e) The Plaintiff is entitled to pre and post judgment interest on the sum awarded pursuant to the Law Reform (Miscellaneous Provisions) (Death and Interest) Act 1935. A **pre-judgment interest of 6% per annum from 10th August 2020 to date of judgment pursuant***

to Section 3 of the Law Reform (Miscellaneous Provisions) (Death and Interest) Act 1935. **Post judgment interest of 4 % per annum from the date of judgment to date of full payment pursuant to Section 4 the Law Reform (Miscellaneous Provisions) (Death and Interest) Act 1935.**

(f) *The Defendants are to pay the Plaintiff FJD \$5000.00 as costs (summarily assessed) within 21 days.*

B. Determination

- [3] I have heard the lawyers on stay pending appeal. The law on stay pending appeal is well established. I need not restate it. I have noted the grounds of appeal.
- [4] Having considered all the factors I find that the appeal if no stay is granted and the appeal is successful, will be rendered nugatory. The Plaintiff resides overseas. If monies are paid out recovery of the money will be difficult. I have also considered that the monies could be paid into court. I would not order that.
- [5] The grounds of appeal were filed in time. I have briefly examined them. They should be heard and determined by the appellate court. Mr. Singh has eloquently put that “every man and his dog” will be interested in the outcome of the appeal. I would not deny them this. The Defendants must be heard and their grounds of appeal should be ventilated in the appellate court. This matter deals with novel issues. The Plaintiff has a judgment in her favor. She needs confirmation from the appellate court to realize the fruits of her labor. Some novel questions are raised. They need to be determined. I see no prejudice to the Plaintiff if stay of execution of judgment is granted.
- [6] I grant stay of execution of judgment entered against the Defendants on 31st January 2025 pending decision of The Court of Appeal.

C. Court Orders

Stay of execution of judgment entered against the Defendants on 31st January 2025 pending decision of The Court of Appeal.



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Chaitanya S. C. A. Lakshman
Puisne Judge

20th June 2025