

ORDER SHEET  
**IN THE HIGH COURT OF SINDH AT KARACHI**

Suit No. 1755 of 2016

---

DATE	ORDER WITH SIGNATURE OF JUDGE
------	-------------------------------

---

1. For hearing of CMA No.11212/16.
2. For examination of Parties/Settlement of Issues.

-----

23.10.2017.

Mr. Khalid Mehmood Siddiqui, Advocate for Plaintiff.  
Mr. Nazir Ahmed shar, Advocate for Defendant.

---

This is an Application under Order 38 Rule 5 CPC for attachment before Judgment of the assets/properties so stated in the application.

Learned Counsel for the Plaintiff submits that the Defendant No.1 while driving a vehicle bearing Registration No.BBJ-063, a Suzuki Swift of White Colour, Model-2013 caused a fatal accident and wife of the Plaintiff Late Sarah Faris died in such accident caused due to negligent driving by Defendant No.1. He submits that this is a claim under Fatal Accident Act, whereas, the deceased was working with a Bank and had legitimate expectancy of earning substantial amount of money as detailed in Para-10 of the Plaint and therefore the property in question be attached before Judgment.

On the other hand, Counsel for Defendant No.1 submits that the properties in question i.e. the vehicle as well as immovable properties are not owned by the Defendants and therefore they cannot be attached. He further submits that no prima-facie case has been made out, therefore, application be dismissed.

I have heard both the learned Counsel and perused the record. Insofar as the attachment of vehicle in question is concerned, it has come on record that the same was not owned by Defendant No.1 but was a rented car and the Counsel for the Plaintiff has already conceded that he will not be seeking attachment of the vehicle. Insofar as the immovable property bearing Residential House No.BLB-5, Masan Road, Keamari, Karachi, as stated in the application is concerned, though in the Counter Affidavit, it has been stated that the same is not owned by the Defendants, however, from perusal of the record and the supporting affidavit of Defendant namely Muhammad Hammad Soomro, executed before the identification branch of this Court it reflects that he resides on the said property and therefore by merely stating that the property in question is not owned by the Defendants would not suffice. The accident of fatal nature has been caused and FIR has also been lodged and on perusal of the photographs attached with the Plaint, it prima-facie appears to be a case of negligence on the part of the Defendants. Therefore, I am of the view that sufficient cause has been shown by the Plaintiff for passing of attachment orders. Accordingly, this application is allowed. The property bearing House No.BLB-5, Masan Road, Keamari, Karachi, is hereby attached until further orders. Office is directed to issue directions to the concerned Sub-Registrar as well as Mukhtiarkar for attachment of the property in question.

J U D G E

Ayaz