

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

**CIVIL APPLICATION NO.2664 OF 2015
IN
FIRST APPEAL (ST) NO.3753 OF 2015**

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.A.R.S.Baxi for the applicant

CORAM : K.K.TATED, J.
DATED : 12/08/2015

PC:

- 1 Heard the learned counsel for the applicant.
- 2 This application is preferred by respondent nos.1 and 2 for stay of the operation and implementation of the award dated 8.10.2014 passed by Commissioner for Workmen's Compensation and Judge, Labour Court, Solapur in Application (WC) No.90/2012 holding that respondents claimants are entitled sum of Rs.5,91,180/- with 12% interest p.a. from the date of judgement till realisation of entire amount.
- 3 The learned counsel for the applicant submits that respondents claimants filed Execution Application for recovery of entire amount. She submits that if entire amount is withdrawn by the respondents claimants in Execution Application,

nothing will survive in the present proceeding. Hence, there is urgency.

4 The learned counsel for the applicant submits that Labour Court erred in coming to the conclusion that applicants are liable to pay compensation to the respondents claimants. She submits that respondents claimants failed to prove employer-employee relationship. Hence, they are not liable to pay any compensation. She further submits that Labour Court has awarded compensation on the higher side. She submits that they have good chance of success in the present matter.

5 The learned counsel for the applicants further submits that the applicants have already deposited entire decretal amount in the Labour Court.

6 Statement is accepted.

7 The learned counsel for the applicant submits that if impugned award dated 8.10.2014 is not stayed, irreparable loss and injury will be caused to the applicant.

8 It is to be noted that in the present proceeding, deceased Vikas Kaldate was working as Line Helper with the respondents. On 14.10.2010 in the morning at about 10 a.m. as per the directions of the respondents, he was repairing the transformer (DP) installed in the field of one Shankar Shivadas Zine within the limits of

Babhulgaon, Tal. Barshi, Dist.Solapur. At that time, he sustained electric shock and died on the spot. Applicant no.1 is a widow who is household wife and applicant nos.2 and 3 are minors. They are taking education. Considering these facts and as there is a delay on the part of applicant to file the present First Appeal, I am of the opinion that claimant no.1, Vandana Vikas Kaldate is entitled to withdraw some amount without furnishing any security. Hence, following order:

(a) Operation and implementation of the judgment and award dated 8.10.2014 passed by Commissioner for Workmen's Compensation and Judge, Labour Court, Solapur in Application (WC) No.90/2012 is stayed in favour of applicant Maharashtra State Electricity Distribution Company Ltd. till further orders.

(b) Claimant no.1, Vandana Vikas Kaldate is entitled to withdraw sum of Rs.2,00,000/- with accrued interest without furnishing any security subject to outcome of the First Appeal.

(c) Labour Court is directed to invest amount in Fixed Deposit of any nationalised bank initially for a period of one and half year and same be continued till the further orders.

(d) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of further amount and that

application shall be decided on its own merits.

(e) Liberty granted to the respondents claimants to execute the award against respondent no.4 if they so desire, according to law for remaining amount.

(f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)