

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

**CIVIL APPLICATION NO.2219 OF 2015
IN
FIRST APPEAL NO.721 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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Mr.D.S.Joshi for the applicant

CORAM : K.K.TATED, J.
DATED : 14/07/2015

PC:

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

2 This application is preferred by Insurance Company for stay of the operation and implementation of the award dated 24.11.2014 passed by 11th Labour Court, Mumbai in Application (WCA) No.157/B-37/2014 holding that the respondents claimants are entitled compensation to Rs.7,27,356/- with 12% p.a. by way of compensation.

3 Counsel for the applicant submits that the respondents claimants filed Execution Application. He submits that entire amount is deposited in Trial Court. He submits that if entire amount is withdrawn by the respondents claimants in

Execution Application, nothing will survive in the present proceeding. He submits that they have good chance of success in the present proceeding. He submits that in the present proceeding, respondent no.6 entered into the witness box and specifically stated that the deceased was not employed by them but was employed by their driver. He submits that these facts are not considered by the Tribunal. He submits that they have good chance of success in the present proceeding. He submits that in the interest of Justice, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award passed by the Tribunal.

4 In the present proceeding, in an accident which occurred on 2.6.2013 claimant no.1 lost her son, Jitendrakumar Yadav. On the date of accident, he was 21 years old and was working as Cleaner on Motor Tanker bearing no.MH-04-GC-2689. As per the contention of the claimant, he was earning Rs.8000/- per month.

5 Considering the fact that claimant no.4 and 5 are minor brothers of deceased, I am of the opinion that claimants are entitled to withdraw some amount without furnishing any security. Hence, following order is passed:

(a) Operation and implementation of the

judgment and award 24.11.2014 passed by 11th Labour Court, Mumbai in Application (WCA) No.157/B-37/2014 is stayed.

(b) Claimant no.1, Ramkumar Ramavadh Yadav and claimant no.2, Smt.Shantidevi Ramkumar Yadav are entitled to withdraw 15% each with accrued interest without furnishing any security subject to outcome of First Appeal.

(c) Labour Court is directed to invest remaining amount in fixed deposit of any nationalised bank initially for a period of one year and same be continued till the hearing and final disposal of the First Appeal.

(d) Liberty granted to the respondents claimants to prefer appropriate application if they so desire for withdrawal of further amount and that application be decided on its own merits.

(e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)