

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

CIVIL APPLICATION NO.1168 OF 2015
IN
FIRST APPEAL (ST) NO.5517 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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Ms. Yogita Deshmukh i/b. M. M. Sathaye for the Applicant

CORAM : K. K. TATED, J.
DATE : MARCH 30, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Applicant, the matter is taken on board for urgent orders.

2. This Application is filed for stay of the operation and implementation of the impugned judgment and award dated 07/08/2014 passed by the Commissioner for Employees Compensation and Judge, 6th Labour Court, Mumbai in Application (WCA) No.580/B-107/2012 awarding compensation of Rs.8,23,800/- with 12% interest.

3. The learned counsel for the Applicant submits that the Respondent-Claimant filed Execution Application for recovery of the

compensation amount. She further submits that as per praecipe dated 26/03/2015 they tendered a cheque dated 25/03/2015 of Rs.10,31,587/- to the Accounts Officer of the tribunal towards payment of decretal amount. She further submits that if the entire amount is withdrawn by the Respondent-Claimant without furnishing any security, then it would be very difficult for them to recover the same in case they succeed. The Tribunal erred in coming to the conclusion that the Insurance Co. is liable to pay the compensation.

4. On the basis of this submission the learned counsel for the Applicant submits that during pendency of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award.

5. In the present proceedings, the Respondent-Claimant lost their son of 31 years in an accident which occurred on 08/08/2012. At the time of accident, the deceased was earning Rs.8000/- pm. Considering the fact that both the claimants are senior citizen and considering the reasons given by the Trial Court, I am of the opinion that both the claimants are entitled to withdraw some amount without furnishing any security. Hence, the following order:

- i. The operation and implementation of the impugned judgment and award dated 07/08/2014 passed by the Commissioner for Employees Compensation and Judge, 6th Labour Court, Mumbai in Application (WCA) No.580/B-107/2012 awarding compensation of Rs.8,23,800/- with 12% interest is stayed till further orders.
- ii. The Respondent-Claimant Mr. Sitaram baburav Gunjal and Smt. Kamal Sitaram Gunjal are entitled to withdraw some of Rs.1,00,000/- each with accrued interest without furnishing any security.
- iii. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one year which will be renewed from time to time till further orders.
- iv. Liberty granted to the Respondent - claimant to file an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on its own merits.
- v. Civil Application stands disposed off accordingly.

JUDGE