

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

CIVIL APPLICATION NO.1187 OF 2015

IN

FIRST APPEAL (ST). NO.7452 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.H.G.Misar for the applicant

CORAM : K.K.TATED, J.

DATED : 18/03/2015

PC:

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

2 The learned counsel for the applicant submits that respondents original claimants filed application for execution. In that application, office of the Commissioner for Workmen's Compensation, Satara issued notice dated 16.2.2015. Hence, there is urgency.

3 This application is preferred by Insurance Company original opponent no.2 for stay of the award dated 10.02.2013 passed by the Commissioner for Workmen's Compensation, Satara in W.C.No.34/C-12/2013 by which sum of

Rs.8,15,400/- with 12% interest was awarded by way of compensation to the respondents claimants.

4 The learned counsel for the applicant submits that they already deposited entire decretal amount in the office of the Commissioner for Workmen's Compensation. Statement is accepted.

5 The learned counsel for the applicant submits that if entire amount is withdrawn by the respondent claimant, nothing will survive in the present proceeding. He submits that Commissioner for Workmen's Compensation failed to consider that in view of breach of the terms and conditions of the Insurance Policy, Insurance Company is not liable to pay compensation. He further submits that in any case, compensation awarded is on higher side. Hence, they have good chance of success in the present matter.

6 The learned counsel for the applicant submits that pending the hearing and final disposal of the present First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the impugned award dated 10.12.2013 and restrained the respondents claimants from withdrawing the amount deposited by them.

7 It is to be noted that in the present proceeding, the deceased was working as a Cleaner with original respondent no.1. The claim petition was

filed by Claimant no.1, Smt.Asma Vinod Jiman, wife of the deceased and Claimant nos.5 and 6, parents of the deceased namely Gunabai Narayan Jiman and Narayan Hari Jiman. The parents are Senior Citizens.

8 Considering these facts, I am of the opinion that the claimant no.1, 5 and 6 are entitled to withdraw some amount without furnishing any security. Hence, following order:

a) Operation and implementation of the Award dated 10.02.2014 passed by the Commissioner for Workmen's Compensation, Satara in W.C.No.34/C-12/2013 is stayed till the hearing and final disposal of the present First Appeal.

b) Original Claimant no.1, Smt.Asma Vinod Jiman, Claimant nos.5 and 6, Gunabai Narayan Jiman and Narayan Hari Jiman each are entitled to withdraw 15% compensation with interest each without furnishing any security.

c) Office of the Commissioner for Workmen's Compensation 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 respondent claimant to

prefer appropriate application if they so desire for withdrawal of the amount and that application be decided on its own merits.

e) Civil Application is disposed of accordingly.

(K.K.TATED, J.)