

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

**CIVIL APPLICATION NO.799 OF 2015
IN
FIRST APPEAL (ST). NO.14627 OF 2014**

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 : 02/03/2015

PC:

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

2 This application is preferred by Insurance Company for stay of the operation and implementation of the judgment and award dated 10.01.2013 passed by MACT, Mumbai in Claim Application No.2843 of 2006 awarding compensation of Rs.11,62,000/- with 7.5% interest p.a. in favour of respondents claimants.

3 The learned counsel for the applicant submits that the respondents claimants filed Execution Application No.178 of 2014 for recovery of awarded amount. He submits that if the entire

amount is withdrawn by the respondent claimant in Execution Application No.178 of 2014, nothing will survive in the present proceeding.

4 The learned counsel for the applicant submits that they already deposited admitted claim amount except Rs.5,88,000/-. He further submits that Insurance Company is ready and willing to deposit remaining amount with the Tribunal within four weeks from today.

5 Statement is accepted.

6 In the present proceeding, respondent claimant lost her son of 24 years in an accident which occurred on 29.03.2006. At that time, the deceased was earning monthly income of Rs.10,000/- p.m. He was working with Bayer Crop Science Limited in Information Management Department at Powai and was a tax payer. Considering these facts, I am of the opinion that the respondents claimants are entitled to withdraw entire amount except Rs.5,88,000/- with interest which is disputed by the Insurance Company. Hence, following order:

(a) Operation and implementation of the judgment and award dated 10.1.2013 passed by MACT, Mumbai in Claim Application No.2843 of 2006 is stayed till further orders on condition that

applicant to deposit entire decreetal amount with interest and cost with the Tribunal within four weeks from today, failing which Civil Application shall stand dismissed without referring back to the court.

(b) If amount is not deposited within stipulated time as stated hereinabove, respondents claimants are entitled to execute the award according to law.

(c) If amount is deposited within stipulated time as stated hereinabove, respondents claimants are entitled to withdraw entire amount except Rs.5,88,000/- with interest without furnishing any security.

(d) If amount is deposited, Tribunal 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.

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

(f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)