

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

**CIVIL APPLICATION NO. 2100 OF 2015
IN
FIRST APPEAL NO. 688 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. Milind More for the applicant.

**CORAM : K. K. TATED, J.
DATED : 16/06/2015.**

PC.:

. 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 operation and implementation of Award dated 26.03.2015 passed by the Commissioner, Employees Compensation And Judge, 9th Labour Court, Mumbai in Application (WCA) No. 129/B-12 of 2013 holding that the respondents claimants are entitled to Rs.6,77,760/- with 12% interest p.a. by way of compensation.

3 The learned Counsel for the applicant submits that he received instructions from his client that respondents claimants filed execution application. He submits that if entire amount is recovered by the respondents claimants in execution application, nothing will survive in the present proceeding. Hence, he has mentioned the matter for urgent

order.

4 The learned Counsel for the applicant submits that the Tribunal erred in coming to the conclusion that insurance company is also liable to pay compensation in the present matter. He submits that Mukesh died on 02.01.2013 due to cardiac stroke. Hence, insurance company is not liable to pay compensation. He submits that this fact is not considered by the Tribunal at the time of passing the impugned award. He submits that they have good chance of success in the present proceeding.

5 The learned Counsel for the applicant further submits that he received instructions from the insurance company to make a statement that they are ready and willing to deposit the awarded amount before the Tribunal within four weeks from today. The statement is accepted.

6 In the present proceeding, the deceased Mukesh died on 02.01.2013 due to accident. He was working as driver of the opposite party. Whether on the date of accident, he was on duty or not that can be decided at the time of hearing of First Appeal.

7 Considering the fact that claimant no.1 to maintain her two minor children, I am of the opinion that she is entitled to withdraw some amount without furnishing any security.

8 Hence, the following order.

a) The operation and implementation of Award dated 26.03.2015 passed by the

Commissioner, Employees Compensation And Judge, 9th Labour Court, Mumbai in Application (WCA) No. 129/B-12 of 2013, is stayed in favour of insurance company only on condition that they have to deposit the entire awarded amount before 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 herein above, the respondent claimant is entitled to proceed with the execution proceeding according to law.

c) If amount is deposited within stipulated time as stated herein above, the claimant no.1 Smt. Jyoti Mukesh Tiwari is entitled to withdraw 1/4th amount without furnishing any security.

d) The Tribunal is directed to invest the remaining amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till further orders.

e) Liberty granted to the respondents claimants to take out appropriate application, if they so desire, for withdrawal of the further amount and that application will be decided on its own merits.

f) Civil Application is disposed of accordingly.

(K.K.TATED, J.)