

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

CIVIL APPLICATION NO.2149 OF 2015
IN
FIRST APPEAL NO.702 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. Kalpana R. Trivedi for the Applicant

CORAM : K. K. TATED, J.
DATE : JUNE 24, 2015

P.C.:

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

2. This Application is preferred by the Insurance Co. 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 No. (WCA) No.806/B-145/2012 awarding sum of Rs.8,79,800/- by way of compensation to the Respondent-claimant.

3. The learned counsel for the Applicant submits that the Respondent-claimant filed Execution Application No.267/G-28/2095 for recovery of the amount. She submits that if the amount is recovered by the claimant in the Execution Application, nothing will survive in the present proceedings. She submits that the Tribunal erred in coming to the conclusion that the deceased died during the course of employment. She submits that the deceased died between 4.45 to 6.00 pm on 20/11/2010 because of electric shock i.e. after working hours. Hence, the Insurance Co. is not liable to pay compensation.

4. The learned counsel for the Applicant submits that the Insurance Co. is ready and willing to deposit the entire amount before the Labour Court, within 2 weeks from today. Statement is accepted.

5. In the present proceedings, in an accident which occurred on 20/11/2010, the claimant No.1 lost her husband who was 23 years old and at that time, he was earning near about Rs.8000/- pm. The claimant No.2 is a mother of the deceased. Both of them have no source of income as stated in cause title of the appeal. Considering these facts,

at present the claimant Nos.1 and 2 are entitled to withdraw some amount without furnishing any security.

6. Hence, the following order:

a. The operation and implementation of the impugned judgment and award dated 07/08/2014 passed by the Commissioner for Workmen's Compensation, Judge, 6th Labour Court, Mumbai in Application No.WCA No.806/B-145/2012 is stayed subject to the Applicant depositing the entire award amount in the Tribunal within 2 weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.

b. If amount is not deposited within stipulated time as stated hereinabove, the Respondent-claimants are entitled to execute the impugned award according to law.

c. If amount is deposited within stipulated time as stated hereinabove, both the Respondent-claimants are entitled to withdraw 25% amount each out of the award amount, without furnishing any security, subject to outcome of the First Appeal.

d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of the remaining amount, if they so desire, which will be decided on its own merits

e. The Labour Court is directed to invest the remaining amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and the same shall be renewed from time to time till hearing and final disposal of the appeal.

f. Civil application stands disposed off accordingly.

JUDGE