

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

CIVIL APPLICATION NO.3407/2010
IN
FIRST APPEAL NO.999/2014

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. S. M. Dange for the Applicant
Mr. Ranjit Patil i/b. K. S. patil for the Respondent
Nos. 1 to 3.

CORAM : K. K. TATED, J.
DATE : AUGUST 5, 2015

P.C.:

1. This Application is preferred by the Insurance Co. for stay of the operation and implementation of the impugned award dated 17/03/2010 passed by the commissioner for Workmen's Compensation and Judge, Labour Court, Mahad in Application (WCA) No.111/B-23/2006 by which the learned Commissioner held that Respondent-Claimants are entitled to Rs.3,78,112.50 by way of compensation with 9% p.a. interest thereon.

2. The learned counsel for the Applicant submits that they have already deposited the entire award amount in the Tribunal. The learned

counsel for the Applicant submits that the Trial Court erred in coming to the conclusion that the Respondent-Claimant proved the relationship of employer and employee between the deceased Dipal Shankar Deshmukh and original opponent No.1 Vijay Balkrishna Dalvi. He submits that even the claimants have not placed on record any documentary evidence to show that the deceased was working as a cleaner with opposite party No.1. In spite of these facts, the Tribunal held that the claimants are entitled to compensation. He submits that the Applicant has good chance of success in the matter. He submits that if entire amount is withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings.

3. On the basis of this submission, the learned counsel for the Applicant submits that pending the hearing and final disposal of First Appeal this Hon'ble Court be pleased to stay the operation and implementation of the impugned award passed by the Tribunal. If stay is not granted irreparable loss and injury will be caused to the Applicant.

4. On the other hand, the learned counsel for the claimant vehemently opposed the present Civil Application. He submits that the Tribunal, after

considering the evidence on record held that the claimants are entitled to compensation. The opponent party No.1 failed and neglected to enter into witness box to prove his case. Therefore, there is no substance in the present Application. Same be dismissed.

5. In the present proceedings, in an accident which occurred on 05/01/2006, the claimant No.1 Smt. Jayashri Dipak Deshmukh lost her husband Dipak Shankar Deshmukh. On the day of accident, he was 33 years old. He was working as cleaner with opposite party No.1 on his truck. He was earning Rs.3750/- by way of salary and also daily charges. Considering the fact that the claimant No.1 is a housewife and she has to maintain her minor children i.e. claimant Nos. 2 and 3, who are taking education, I am of the opinion that at present the claimant No.1 is entitled to withdraw some amount with accrued interest without furnishing any security.

6. Hence, following order is passed:

a. The operation and implementation of the impugned award dated 17/03/2010 passed by the commissioner for Workmen's Compensation and Judge, Labour Court, Mahad in Application (WCA)

No.111/B-23/2006 is stayed till hearing and final disposal of the appeal.

b. The claimant No.1 Smt. Jaishree Dipak Deshmukh is entitled to withdraw sum of Rs.1,50,000/- with accrued interest without furnishing any security, subject to outcome of the First Appeal.

c. The Tribunal is directed to invest the remaining amount in a fixed deposit account of any Nationalized bank, initially for a period of one and half year which will be renewed from time to time till hearing and final disposal of the appeal.

d. Civil Application stands disposed off accordingly.

JUDGE