

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

**CIVIL APPLICATION NO.979 OF 2015
IN
FIRST APPEAL (ST) NO.11839 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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Mrs.Poonam Mittal for the applicant

Mr.T.J.Mendon for the respondent nos.1 to 4

**CORAM : K.K.TATED, J.
DATED : 04/03/2016**

PC:

- 1 Heard the learned counsel for the parties.
- 2 This application is preferred by Insurance Company for stay of the operation and implementation of the impugned judgment and award dated 19.9.2013 passed by 11th Labour Court, Mumbai in Application (WCA) No.987/B-157/2009 by which the Labour Court held that the respondents claimants are entitled a sum of Rs.4,33,820/- with interest @ 9% p.a. by way of compensation.
- 3 The learned counsel for the applicant submits that if entire amount is recovered by the respondents claimants in Execution Application then it will be very difficult for them to recover the

same from the claimants if they succeed in the present First Appeal. She submits that they have good chance of success in the present First Appeal.

4 On the other hand, the learned counsel for the respondent nos.1 to 4 submits that appeal filed by the Insurance Company itself is not maintainable. He submits that Insurance Company has not deposited entire awarded amount before filing the present First Appeal. In support of this contention, he relies on the order passed by this court (Coram: A.H.Joshi, J.) on 29.4.2013 in First Appeal No.417 of 2013 with Civil Application No.1620 of 2013. Hence, there is no question of granting any relief in the present Civil Application.

5 I have heard both the sides.

6 It is to be noted that the issue about deposit of entire awarded amount by Insurance Company before filing of First Appeal arising out of Workmen's Compensation Act is pending for hearing and final disposal in group of matters. Considering these facts, I am of the opinion that the present Civil Application can be decided without prejudice to the rights and contention of respondents / claimants.

7 The learned counsel for the applicant Insurance Company submits that she received instruction from the Insurance Company that they are ready and willing to deposit entire awarded

amount in the Labour Court within six weeks from today. Statement is accepted. Hence, following order is passed:

- a. The operation and implementation of the impugned judgment and award 19.9.2013 passed by 11th Labour Court, Mumbai in Application (WCA) No.987/B-157/2009 is stayed, till hearing and final disposal of the appeal on condition that the Applicant Insurance Company to deposit the entire awarded amount with interest, cost, if any, in the Labour Court within six weeks from today, failing which the Civil Application shall stand dismissed without further reference to the court.
- b. If the entire awarded amount is not deposited within stipulated time as stated hereinabove, the Respondent-claimants are entitled to execute the award as per law.
- c. If the entire awarded amount is deposited within stipulated time as stated hereinabove, the Labour Court is directed to invest the entire awarded amount in a fixed deposit account of any Nationalized Bank, initially for a period of one year and same shall be renewed from time to time till hearing and final disposal of the appeal.
- d. Liberty granted to the claimants to prefer an appropriate Application for withdrawal of amount, if they so desire, which will be decided on its own

merits

e. Stay is granted only in favour of Insurance Company. Liberty granted to the respondents claimants if they so desire to proceed for execution against owner of the vehicle according to law.

f. Civil application stands disposed off accordingly.

JUDGE