

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1026/2015
IN
FIRST APPEAL (ST) NO. 16877/2014

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. Milind M. Sathaye for the Applicant

CORAM : K. K. TATED, J.
DATE : JANUARY 15, 2016

P.C.:

1. Heard. This Application is made by the Insurance Co. for stay of the operation and implementation of the impugned award dated 18/07/2013 passed by the Commissioner for Employees Compensation and Judge, 6th Labour Court in Application WCA No.927/V-309/2007 awarding sum of Rs.8,67,640/- with 12% p.a. interest by way of compensation.

2. The learned counsel for the Applicant Insurance Co. makes a statement that he received instructions from the Insurance Co. that they are ready and willing to deposit the entire awarded amount in the Tribunal within 6 weeks from today. Statement is accepted. He submits that the claimant failed to prove the relationship of employer employee. Hence, Insurance Co. is not

liable to pay any compensation. The Tribunal has awarded compensation considering the 100% functional disability. Same is on higher side. He submits that if entire amount is recovered/withdrawn by the Respondent-Claimant, nothing will survive in the present proceedings. He submits that the Applicant has good chance of success in the matter. If stay is not granted irreparable loss and injury will be caused to the Applicant. He submits that in the interest of justice this Hon'ble Court be pleased to stay the operation and implementation of the impugned judgment and award passed by the Tribunal till hearing and final disposal of the appeal.

3. It is to be noted that in the present proceedings the claimant was working as a driver. He met with an accident on 29/09/2007. He sustained disability to the extent of 61%. Prima facie, it seems that, if a driver sustains disability to the extent of 61%, then he cannot work as a driver. Considering these facts, the claimant can withdraw 50% without furnishing any security, subject to outcome of the First Appeal.

4. Hence, following order is passed:

a. The operation and implementation of the

impugned judgment and award dated 18/07/2013 passed by the Commissioner for Employees Compensation and Judge, 6th Labour Court in Application WCA No.927/V-309/2007 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 Tribunal within 6 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 Respondent-claimant are entitled to withdraw 50% of the awarded amount without furnishing any security subject to out come of the appeal.

d. The Tribunal is directed to invest the remaining award 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.

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

f. Civil application stands disposed off accordingly.

JUDGE