

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

**CIVIL APPLICATION NO. 50 OF 2016
IN
FIRST APPEAL NO. 34 OF 2016**

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. D.S. Joshi for the applicant.

**CORAM : K. K. TATED, J.
DATED : 13/01/2016**

PC.:

. Not on board. At the request of Advocate for the applicant, matter is taken on board for urgent orders.

2 The learned Counsel for the applicant submits that they received the execution application no. 563/G-61 of 2015 from office of the Commissioner for Employees Compensation for recovery of entire awarded amount. Hence, there is an urgency in the matter.

3 The learned Counsel for the applicant submits that Applicant-Insurance Company already deposited the entire awarded amount in the office of the Commissioner for Employees Compensation.

4 The learned Counsel for the applicant submits that in the present proceeding, the respondent original claimants filed application for compensation

under Workmen's Compensation Act. In the said application, the respondents-claimants admitted that the deceased was getting salary of Rs.7,800/-. He further submits that even the Commissioner for Workmen's compensation in paragraph 14 recorded that insurance policy in question covers those labourers whose wages were less than Rs.4000/- only. In spite of that the Commissioner for Workmen's Compensation held that the Insurance Company also liable to pay compensation.

5 The learned Counsel for the applicant further submits that the Tribunal has granted interest @ 12% per annum on awarded amount. He submits that Insurance Company are liable to pay any interest on the compensation as per terms and conditions of insurance policy. He submits that they have good chance of success in the present matter. He submits that if the entire amount is withdrawn by the respondents-claimants, nothing will survive in the present proceeding. He submits that in the interest of justice, this Hon'ble Court be pleased to stay the operation and implementation of impugned Judgment and Award passed by the Commissioner of Employees Compensation till the hearing and final disposal of the First Appeal. He further submits that if stay is not granted, irreparable loss and injury will be caused to them.

6 Considering the submissions made by learned counsel for the applicant, averments made in civil application and as the wages of the deceased was more than Rs.4000/- and Tribunal directed to pay interest @12% per annum on the awarded amount, I am of the opinion that applicant has made out the case for allowing the civil application.

7 Hence, the following order:

a) Civil Application is allowed in terms of prayer clause (a), which reads thus:

“a) Pending the hearing and final disposal of the appeal, this Honourable Court, by an order of stay, may kindly stay the operation, implementation and execution of the impugned Judgment and Award dated 21.07.2015 passed by Commissioner for Workmen's Compensation, Mumbai in Application (WCA) No. 486/B-94/2012”.

b) The Tribunal is directed to invest the entire amount in Fixed deposits of any Nationalised Bank, initially for the period of one year and same to be continued till hearing and final disposal of the First Appeal.

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

d) It is made clear that the stay is granted only in favour of Insurance Company and respondents-claimants are entitled to execute the

award against the other respondents, if they so desire, according to law.

e) Civil Application stands disposed of accordingly.

(K.K.TATED, J.)