

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 539 OF 2017

IN

FIRST APPEAL (ST) NO. 105 OF 2017

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. Shrikant Dange for the Applicant.

CORAM: K.K.TATED, J.

DATED : 10/10/2019

P.C.

1 Heard learned Counsel for the Applicant.

2 By this Civil Application, the Applicant Insurance Company is seeking stay of the operation and implementation of the Judgment and Award dated 19.08.2019 passed by Commissioner for Employees' Compensation and Judge, Third Labour Court, Mumbai in WCA No. 469/B-81 of 2010 holding that the Respondents original Claimants are entitled to a sum of Rs. 8,19,415/- by way of compensation with interest @ 12 % p.a.

3 The learned Counsel for the Applicant submits that they already deposited the entire awarded amount in the Tribunal. He submits that pending the hearing and final

disposal of the First Appeal, this Hon'ble Court be pleased to stay the operation and implementation of the Judgment and Award passed by the Tribunal. He submits that they have good chance of success in the present matter. He submits that if entire amount is recovered by the Respondents Claimants in Execution Application, then nothing will survives in this First Appeal.

4 It is to be noted that in the present proceeding in the accident which occurred on 18.03.2010, the husband of Claimant No.1 died. Claimant Nos. 4 and 5 are father-in-law and mother-in-law respectively of Claimant No.1 and Claimant Nos. 2 and 3 are minor children.

5 Considering the fact that the Applicant No.1 to maintain her both children who are minor, I am of the opinion that Claimant No.1 can be permitted to withdraw the some amount without furnishing any security but subject to outcome of the First Appeal.

6 Hence, following order is passed:

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

“a) Pending the hearing and final disposal of the above appeal, the order dated 19.08.2016 of G.L.Masand, Commissioner for Employees Compensation & Judge, Third Labour Court, Mumbai I/C Fourth Labour

Court, Mumbai in Application (WCA) No. 469/B-81 of 2010 be stayed”.

b) Claimant No.1 Sulekhadevi Anil Varma is entitled to withdraw sum of Rs.2,00,000/- with accrued interest without furnishing any security but subject to outcome of the First Appeal.

c) Claimant No.4 Shri. Babulal Ramdev Verma and Claimant No.5 Dharmidevi Babulal Verma are entitled to withdraw sum of Rs.50,000/- each with accrued interest without furnishing any security but subject to outcome of the First Appeal.

d) The Labour Court is directed to invest the remaining amount in fixed deposit of any Nationalised Bank, initially for a period of one year and same to be continued till further order.

e) Liberty is granted to the Respondents-Claimants, if they so desire, to prefer an appropriate application for withdrawal of further amount and that to be decided on its own merits.

f) Civil Application stands disposed of accordingly.

g) No order as to costs.

(K.K.TATED, J.)