

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 9098 OF 2015
IN RC/490/2015

DEEPAK PRALHAD BANKAR
VERSUS
BHAURAO BHIMRAO SALUNKE AND ANOTHER

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Advocate for Applicant : Mr. J. T. Bansode.
Advocate for Non applicant no.1 : Mr. U.S. Sawji.
Advocate for Non applicant no.2 : Mr. Usmanpurkar.

CORAM : A.M. BADAR, J.
DATE : 8th DECEMBER, 2015.

PER COURT:

1] This is an application by original claimant whose claim under Section 10 of the Employees Compensation Act, came to be allowed by the learned Commissioner for Workmen's Compensation and Judge, Labour Court, Aurangabad in App/WC No. 15 of 2004. The learned Commissioner, by judgment and order dated 01.10.2014, was pleased to direct both the opponents to jointly and severally pay compensation of Rs. 91,233/- to the original claimant alongwith interest and penalty.

2] This judgment and order of the learned Commissioner for Workmen's Compensation is carried in appeal by the original respondent No.1 Bhaurao Bhimrao Salunke. This Court by an order dated 23.2.2015 is pleased to reject the application for condonation of delay by holding that it does not survive as no substantial question of law arise in the said appeal.

3] Heard learned counsel for the original applicant, original respondent No.1 as well as original respondent No.2 Insurance Company.

4] Learned counsel appearing for original respondent

No.1/appellant has argued that after rejection of the application for condonation of delay in filing the appeal, he had moved an application for review. That application is already rejected. He further submitted that he has filed application for recalling of the order and the same is pending. Learned counsel for original respondent No.1/appellant further submitted that execution petition is already pending before the learned Commissioner for Workmen's Compensation. Similarly, learned counsel for the respondent No.2/Insurance Company reiterated same averments by contending that the execution petition is pending before the learned Commissioner. As such, according to both the learned counsel, present applicant/original claimant is not entitled to withdraw the amount deposited by original respondent No.1.

6] The amount deposited in this Court is for filing appeal and the same represents the amount directed to be paid by respondents to the original claimant. As the appeal itself is dismissed because of rejection of application for condonation of delay, by holding that no substantial question of law is involved, the amount deposited by the original respondent No.1 in this Court needs to be paid to the applicant/original claimant.

7] As such, the application is allowed. The amount deposited by respondent No.1 in this court be released in favour of present applicant/original claimant Deepak Pralhad Bankar and the same be adjusted in the amount payable to him under the award in WC No. 15/2004, passed on 1.10.2014 by the Commissioner for Workmen's Compensation, Aurangabad. The application is accordingly disposed of.

[A.M. BADAR, J]

grt/-