

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.186 OF 2015  
IN  
FIRST APPEAL (ST.) NO.1147 OF 2015

|                                    |                        |
|------------------------------------|------------------------|
| M/s. Vidyut Aparentis Seva Society | ...Applicant/Appellant |
| vs.                                |                        |
| Sambhaji Kaka Zambre and Others    | ...Respondents         |

Mr. Kuldeep Nikam, for Applicant.  
Mr. Umesh Mankapure, for Respondent Nos. 1 and 2.

CORAM : K.K. TATED, J.

4TH MARCH 2015

P.C. :-

Heard learned counsel for the parties.

2] This application preferred by the original opponent No. 3 for condonation of 92 days delay in filing First Appeal challenging the judgment and award dated 13-08-2014 passed by the Commissioner in Employees Compensation, Sangli in WC Application No. 20/B-6/2013 by which the Tribunal held that Respondents-claimants are entitled the sum of Rs. 6,07,384/- with 12% interest by way of compensation.

3] The learned counsel for Applicant submits that they paid sum of Rs. 40,000/- to the claimant on 27-05-2010, Rs. 2,00,000/- were received from Respondent Nos. 3 and 4 and Rs. 2,30,000/- received by the Respondent-claimants from the Oriental Insurance Company Limited. He submits that in this way the Respondents-claimants received total Rs. 4,70,000/- before passing the impugned award dated 13-08-2014. He further submits that the Applicant undertakes to deposit the remaining amount in this Court within four weeks from today. The undertaking is accepted.

4] On the other hand, the learned counsel for the Respondent-original claimant vehemently opposed the application. He submits that First Appeal as filed by the Applicant is not maintainable because entire amount is not deposited as required under Section 30 of Employees Compensation Act, 1923. He submits that whatever amount is received by the claimants, was not towards the compensation. He submits that sum of Rs. 2,00,000/- received by the claimants as per policy of Respondent Nos. 3 and 4 and Rs. 2,70,000/- was towards Insurance claim. Therefore, that amount can not be calculated at the time of depositing the amount in this Court. Therefore the present Civil Application is not maintainable and the same to be dismissed with cost.

5] I heard both the sides at length. It is to be noted that in the present proceeding, the claimant had already received Rs. 4,70,000/-.

6] Considering the submissions made by the learned counsel for the Applicant and the averments made in the Application and as the Applicant shown willingness to deposit the remaining amount in this Court within two weeks from today, I am satisfied that the Applicant has made out a case.

7] Hence, the following order:

A) Delay of 92 days in filing First Appeal is condoned on condition that Applicant to deposit the remaining amount (i.e. Rs. 1,37,384/-) in the office of Commissioner within four weeks from today failing which the Civil Application shall stands dismissed without further reference to the Court.

B) Civil Application stands disposed of accordingly.

(K.K.TATED J.)