

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 830 OF 2009
IN
FIRST APPEAL NO. 725 OF 2009

Hanamant Tukaram Karande ... Applicant

Vs.

Pandurang Vitthal Salunkhe

D/H Rukmini Pandurang Salunkhe & Ors. ... Respondents

Mr. Sarang S. Aradhya, Advocate for the applicant.

Mr. Vijay Dighe i/b. Mr. Nitesh V. Bhutekar, Advocate for respondent no. 1A.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: 11th February, 2016.

P.C.:

The First Appeal is filed by original respondent no. 1/land owner, who has given contract to original respondent no. 2 to dig well in the agricultural field and original respondent no. 3 is the operator of crane, due to whose negligence act, heavy material like stones/mud in the box fell on the deceased, who was in the employment of respondent no.2 and who succumbed to injuries.

2. Though respondent no. 2 is served, he is not present.

3. The learned counsel for respondent no. 1/original claimant wants more time to produce precedent on the point of joint and several liability.

4. In view of this, the matter is fixed on 18th February, 2016. Meanwhile, the appellant to serve respondent no. 2 either through humdast or courier by way of additional service informing that the matter is fixed for Final Hearing on 18th February, 2016 and to that effect, affidavit of service is to be filed.

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5. The total award is Rs.2,97,353/-, thus if the liability is divided between two respondents, the liability of each comes to Rs.1,49,000/- approximately. However, the appellant has deposited Rs.75,000/- in the Labour Court on 7th January, 2009. So, the appellant is directed to deposit remaining amount of Rs.74,000/- along with 12% interest from the date of accident in the trial Court.

6. The original claimants are allowed to withdraw an amount of Rs.75,000/- deposited by the appellant. Civil Application is allowed.

(MRIDULA BHATKAR, J.)