

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL (ST.) NO. 1386 OF 2015
WITH
CIVIL APPLICATION NO. 4293 OF 2015
WITH
CIVIL APPLICATION NO. 4294 OF 2015
IN
FIRST APPEAL (ST.) NO. 1386 OF 2015**

New India Assurance Co. Ltd. ...Applicant

Versus

Mrs.Senehar Bibi Johar Shaikh & Anr. ...Respondents

WITH

**FIRST APPEAL (ST.) NO. 1386 OF 2015
WITH
CIVIL APPLICATION NO. 3696 OF 2017
IN
FIRST APPEAL (ST.) NO. 1386 OF 2015**

Mrs.Senehar Bibi Johar Shaikh ...Applicant

IN THE MATTER BETWEEN

The New India Ass. Co. Ltd. ...Appellant

Versus

Mrs.Senehar Bibi Johar Shaikh & Anr. ...Respondents

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Mr.Ramesh K. Cheulkar for the Applicant in CAF Nos. 4293 and 4294 of 2015.

Mr.T.J.Mendon for Respondent No.1 and the Applicant in CAF No. 3696 of 2017.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATED: NOVEMBER 23, 2017

P.C. :

1. Upon urgent mentioning, taken on Production Board.

CIVIL APPLICATION NO. 4293 OF 2015

2. This Application is moved for condonation of delay in filing the First Appeal.
3. Learned counsel for the applicant submitted that there is a delay of 175 days in filing the Appeal. This delay has taken place due to procedural wrangles and hence the delay be condoned.
4. Learned counsel for the main contesting party i.e. respondent no.1 is present.
5. In view of the reasons mentioned in the Application, delay is condoned.
6. Civil Application is allowed and is disposed of accordingly.
7. First Appeal be numbered. Place the Appeal for admission in February 2018.

CIVIL APPLICATION NO. 4294 OF 2015

8. Learned counsel for the applicant submitted that the application for stay filed by the insurance company is not traceable.

9. Learned counsel for the applicant may reconstruct the application for stay.

CIVIL APPLICATION NO. 3696 OF 2017

10. This Application is moved by the applicant/original claimant for withdrawal of an amount of Rs.7,69,825/- along with interest @ 12% p.a. deposited by the insurance company/original appellant pursuant to the order dated 17.05.2014 passed by the learned Commissioner for Employees Compensation and Judge, Third Labour Court, Thane in Application (WCA) No. 103/B-31 of 2011.

11. Learned counsel for the applicant submitted that the accident took place on 22.10.2010 during the course of his employment. The applicant is a mother of the deceased. He further submitted that the applicant needs money to survive and, therefore, she be allowed to withdraw the amount deposited by the insurance company. Till today, she has not withdrawn any amount.

12. The learned counsel for the appellant/insurance company while opposing this application, has submitted that the insurance company has good case on merits.

13. Considering the facts of the case and the submission, the applicant i.e. mother of the deceased is allowed to withdraw 50% of the amount of compensation with interest accrued thereon on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

14. Civil Application is allowed and is disposed of accordingly.

(MRIDULA BHATKAR, J.)