

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

**CIVIL APPLICATION NO.3831 OF 2016
IN
FIRST APPEAL (ST) NO.22832 OF 2016
WITH
CIVIL APPLICATION NO.3832 OF 2016
IN
FIRST APPEAL (ST) NO.22832 OF 2016**

Mr.Babaso Shaymrao Pawar ..Applicant/Appellant
V/s.

Mr.Dattatray Laxman Desai & Anr. ..Respondents

Mr.S.T. Bhosale i/b Mr.Dilip Bodke for the Applicant/Appellant.

CORAM : M. S. SONAK, J.

DATE : 06 APRIL 2017

P.C.

1. Upon production, taken on board.

2. It appears that there is no compliance with the third proviso to Section 30(1) of the Employees Compensation Act, 1923 which reads thus :-

“[Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has

deposited with him the amount payable under the order appealed against.]”

3. In the absences of a certificate from the Commissioner to the effect that the appellant has deposited with him the amount payable under the ordered appeal against the appeal itself will not lie.

4. On this short ground the civil application and the appeal is dismissed.

5. The learned counsel for the appellant states that he is not to sure whether there is compliance with the provisions of the aforesaid proviso or not.

6. In case, the learned counsel for the appellant, within a period of one week, acquired certainty on this aspect, is at liberty to apply for restoration. However, it does not seem that there was any compliance, because, if there was compliance, then the certificate is very much available on

record and further, submission would not be made that the workmen is pressing for execution of the impugned judgment and order.

7. The Civil Application and Appeal is consequently dismissed.

(M. S. SONAK, J.)