

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

**CIVIL APPLICATION NO.4398 OF 2016
IN
CIVIL APPLICATION NO.3945 OF 2016
IN
REJECTED CASE NO.2418 OF 2016**

Mrs.Chandravati S. Dubey
Through Power of Attorney
Brijendra Umapati Dubey And Anr. ..Applicants

IN THE MATTER BETWEEN

The New India Assurances Co. Ltd. ..Appellant
V/s.

Mrs.Chandravati S. Dubey
Through Power of Attorney
Brijendra Umapati Dubey And Ors. ..Respondents

Mr.V.M. Parkar for the Applicants.

CORAM : M. S. SONAK, J.

DATE : 19 JANUARY 2017.

P.C.

1. The Civil Application No.3945 of 2016 seeks restoration of the appeal which was dismissed on 25 September 2012. Since, there is delay of about 300 days in seeking for restoration, Civil Application No.169 of 2012 has been taken

up.

2. On 09 January 2017 this Court has directed that this Civil Application to appear on board on 19/01/2017 (High on Board). Further opportunity was given to the appellant-Insurance Company to make good the deficit, in the light of their undertaking that they will deposit the entire decretal amount.

3. Today when the matter is called out, neither the representative of the Insurance Company nor their advocate are present. The learned counsel for the claimant states that the compensation amount is already deposited before the Workman Compensation Commissioner, even though it is the case of the claimant that the deposited amount is not in accordance with the award made by the Commissioner.

4. The application for condonation of delay in restoring the appeal is dismissed for non-prosecution. Consequently, the application for restoration shall also stand

dismissed.

5. Upon production taken on board. Civil Application No.4398 of 2016 for withdrawal of compensation is hereby allowed. Works-man Compensation Commissioner to permit such withdrawal unconditionally. Insofar as the alleged balance amount in terms of the award is concerned, the claimants can always apply for execution. The Civil Applications are accordingly disposed of.

(M. S. SONAK, J.)