

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

**CIVIL APPLICATION NO. 1129 OF 2014
WITH
CIVIL APPLICATION NO. 1130 OF 2014
IN
FIRST APPEAL (ST.) NO. 23705 OF 2013**

The New India Assurance Company Ltd. ...Applicant

Versus

Shri Radheshyam Shreeram Yadav & Anr. ...Respondents

**WITH
CIVIL APPLICATION NO. 3885 OF 2017
IN
FIRST APPEAL (ST.) NO. 23705 OF 2013**

Shri Radheshyam Shreeram Yadav ...Applicant

IN THE MATTER OF

The New India Assurance Company Ltd. ..Appellant

Versus

Shri Radheshyam Shreeram Yadav & Anr. ...Respondents

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Mr.D.R.Mahadik for the Applicant in CAF Nos. 1129 and 1130 of 2014.

Mr.T.J.Mendon for Respondent No.1 in CAF Nos. 1129 and 1130 of 2014 and for the Applicant in CAF No. 3885 of 2017.

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CORAM: MRS.MRIDULA BHATKAR, J.
DATE : DECEMBER 06, 2017

P.C.:

1. Upon urgent mentioning, taken on Production Board.

CIVIL APPLICATION NO. 1129 OF 2014

2. There is a delay of 55 days in filing the First Appeal.
3. Learned counsel for the applicant submits that there is a delay of 55 days in filing the First Appeal and the same be condoned.
4. Learned counsel for respondent no.1 is present and submits to the order of this Court.
5. For the reasons mentioned in the Civil Application and in view of uncontroverted submissions, delay is condoned.
6. Civil Application is allowed and is disposed of accordingly.
7. Appeal be numbered.

CIVIL APPLICATION NO. 1130 OF 2014

8. By this Civil Application, the applicant/insurance company seeks stay to the execution and implementation of the impugned judgment and order dated 1st April, 2013 passed by the learned Commissioner for Workmen's Compensation and Judge, 11th Labour Court, Mumbai, in Application (WCA) No. 469/C-147/2007.

9. Learned Counsel for the applicant submits that the applicant/insurance company has deposited the entire decretal amount alongwith interest accrued thereon.

10. In view of this submission, the execution and implementation of the impugned judgment and order is stayed till the final disposal of the Appeal.

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

CIVIL APPLICATION NO. 3885 OF 2017

12. This Application is moved for withdrawal of an amount deposited by the original appellant pursuant to the judgment and order dated dated 1st April, 2013 passed by the learned Commissioner for Workmen's Compensation and Judge, 11th Labour Court, Mumbai, in Application (WCA) No. 469/C-147/2007. The learned Commissioner has granted compensation of Rs.4,99,152/- alongwith interest @ 12% p.a.

13. Learned counsel for the applicant submits that it is an injury claim. In the accident, the applicant, who was driving the vehicle, has sustained serious injuries to the right eye, which has resulted into permanent disability of 30% and, therefore, he be allowed to withdraw the amount of compensation deposited by the insurance company.

14. Learned counsel for the original appellant/insurance company submits that the insurance company has good case on merits.

15. In view of the submission of the learned counsel for the applicant, the applicant is allowed to withdraw 50% of the amount deposited by the appellant/insurance company on an usual undertaking. The remaining amount is to be deposited in the fixed deposit in any nationalized bank.

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

17. The appellant/insurance company is directed to provide legible copy of the impugned judgment and order.

(MRIDULA BHATKAR, J.)