

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CIVIL APPLICATION (F) NO.2251 OF 2016
IN
FIRST APPEAL STAMP NO.13498 OF 2016

(The New India Assurance Co. Ltd., thr. its Regional Manager, Regional Office,
Nagpur Vs. Yasmeen Jahan Nisar Ahmed and others)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri M.B. Joshi, Advocate for Applicant/Appellant.
Shri S.S. Alaspurkar, Advocate for Respondent Nos.1 to 5.

CORAM: SMT. DR. SHALINI PHANSALKAR-JOSHI, J.
DATE: 8th JUNE, 2017.

Heard learned counsel for the applicant and respondent Nos.1 to 5. Respondent No.6 has not appeared though duly served with the notice.

This is an application seeking condonation of delay of 176 days in preferring the appeal. For the reasons stated in para 2 and 3 as sufficient cause is made out, the delay is condoned.

The application is allowed and disposed of finally.

Civil Application (F) No.2252/2016:

Heard learned counsel for the appellant and respondent Nos.1 to 5.

Learned counsel for appellant has deposited the entire amount of compensation as awarded by the Tribunal on 22.08.2016. In view thereof, the stay is granted to the execution of the impugned judgment and award till the decision of the appeal.

The application is disposed of finally.

First Appeal Stamp No.13498/2016:

Heard.

Admit.

Call for R & P.

It is submitted by the learned counsel for respondent Nos.1 to 5, that respondent Nos.1 to 5 have also filed First Appeal No.102/2016 challenging the impugned judgment and award. In view thereof, both the appeals arising out of one and same judgment, office is directed to tag both these appeals together and be fixed for final hearing.

Civil Application (O) No.378/2017:

This is an application for withdrawal of the amount of compensation. It is filed by the claimant submitting that the respondent No.1-claimant is a widow and needs the amount for education of her children who are minor. It is submitted that the respondent Nos.4 and 5 are senior citizens and requiring the money for their livelihood.

The learned counsel for the appellant takes objection to withdrawal of the entire amount on the count that there is a breach of policy and, therefore, Insurance Company is not liable to pay any amount.

Considering the requirement of the claimant-respondent wife and of respondent Nos.4 and 5, they are permitted to withdraw their share of amount as given in the award subject to furnishing usual undertaking, that in case the decision goes against them, the entire amount will be repaid with interest thereon.

The application is disposed of finally.

JUDGE