

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

**CIVIL APPLICATION NO. 1770 OF 2019
IN
FIRST APPEAL (ST) NO. 37330 OF 2018**

National Insurance Co. Ltd.Applicant
V/s.
Vikas Madanlal Nayak and anr.Respondents

**WITH
CIVIL APPLICATION NO. 1772 OF 2019
IN
FIRST APPEAL (ST) NO. 37330 OF 2018
WITH
FIRST APPEAL (ST) NO. 37330 OF 2018**

Vikas Madanlal NayakApplicant

In the matter between :-

The National Insurance Co. Ltd.Appellant
V/s.
Vikas Madanlal Nayak and anr.Respondents

Ms. Harshada M. Rane for the applicant in CAF/1770/2019 and
for the appellant in FAST/37330/2018 and for the respondent
in CAF/1772/2019.

Mr. Jayant J. Bardeskar for respondent no.1 and for the applicant
in CAF/1772/2019.

Mr. Satyajeet Shirke for respondent no.2.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 16th OCTOBER, 2019**

P.C.:-

ORDER IN CIVIL APPLICATION NO. 1770 OF 2019 :-

1. By this application, the applicant has sought to condone the delay
of 87 days in filing the appeal against the judgment and award dated

27/07/2018 passed by the learned Commissioner for Employees Compensation at Kolhapur in E.C.A. No.96/C-24/2014.

2. The learned counsel for the respondents have no objection for condoning the delay. In the light of said statement and in view of the reasons stated in paragraph 2(a) to 2(g) of the application, which in my considered view constitute sufficient ground, delay is condoned. Appeal be registered subject to removal of office objections, if any. Mr. Jayant Bardeskar and Satyajeet Shirke, learned counsels waives service on behalf of respondent nos.1 and 2 respectively. Appeal be listed 'for admission' on 27/11/2019.

3. Civil Application No.1770 of 2019 stands disposed of.

ORDER IN CIVIL APPLICATION NO. 1772 OF 2019

4. By this application, the applicant has sought withdrawal of the compensation awarded by the learned Commissioner for Employees Compensation at Kolhapur in E.C.A. No.96/C-24/2014.

5. By the impugned judgment, the learned Commissioner has awarded total compensation of Rs.10,81,056/- and in addition compensation of Rs.40,000/- towards medical expenses. The appellant

– insurance company is also directed to pay interest @12% p.a. from 01/07/2014 till final realization of the amount and 50% penalty on employee compensation amount.

6. The applicant is a 19 year old boy who was employed as a labourer with the respondent no.2 and was earning salary of Rs.9,800/- per month. In the course of his employment, he met with an accident. During the treatment, the doctor had done amputation of his right hand limb above the level of wrist which has resulted in 60% permanent disablement. It is stated that the employee is unable to do his regular work. Upon considering the nature of the injuries and the extent of permanent disablement, the learned Commissioner has awarded compensation of Rs.10,81,056/-.

7. It is stated that the applicant who is a young boy of 19 years of age, is unable to secure any work because of the nature and extent of disablement. He is unable to earn his livelihood and is presently facing financial crisis. It is stated that the employee is in need of money for his day to day needs as well as medical expenses.

8. The learned counsel for respondent no.1 has objected to the application mainly on the ground that the application has been filed by

the Power of Attorney. She apprehends that the money may not reach the actual victim.

9. Having perused the records and having considered the reasons stated in the application as well as the grounds raised in the appeal memo, the applicant - Vikas Madanlal Nayak is allowed to withdraw 50% of compensation along with proportionate interest accrued thereon. The Tribunal to re-invest the balance amount in any nationalized bank till the disposal of the appeal.

10. It is made clear that the payment of compensation is subject to the final outcome of the appeal. The applicant shall personally give an undertaking before the Tribunal that he shall abide by the order that may be passed in the appeal.

11. It is further clarified that the compensation shall be paid to the actual victim – Vikas Madanlal Nayak and not to the Power of Attorney and/or any other agent. The payment shall be made only after ascertaining the identity of the victim / employee.

12. Civil Application No.1772 of 2019 stands disposed of.

**Preeti H.
Jayani**

Digitally signed by
Preeti H. Jayani
Date: 2019.10.22
17:10:02 +0530

(SMT. ANUJA PRABHUDESSAI, J.)