

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

First Appeal No.825/2013
with
Civil Application No.1070/2017

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. D. R. Mahadik for the Applicant
Ms. Varsha Nichani for the Respondent

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 25, 2019

P.C.

1 Heard. By this First Appeal, the Appellant Insurance Co. challenges the judgment and award dated 02.02.2013 passed by the Commissioner Workmen's Compensation and Judge 3rd Labour Court, Thane in Application (WCA) No.426/B/118/2011 holding that the Respondent-Claimants are entitled to sum of Rs.4,26,510/- by way of compensation with interest @ 12% p.a.

2 The learned counsel for the Appellant submits that by this First Appeal, they are challenging the part of the impugned judgment and award to the extent of payment of interest @ 12% p.a. on the awarded compensation. He

submits that in view of the judgment of the apex court in the matter of ***New India Assurance Co. Ltd. Vs. Harshadbhai Amrutbhai Modhiya & Anr. 2006 ACJ 1699***, the Insurance Co. is not liable to pay interest on the awarded amount. He relies on the judgment of the apex court in the matter of ***P.J.Narayan Vs. Union of India & Ors. 2006(5) SCC 200***.

3 On the basis of these submissions the learned counsel for the Appellant submits that the impugned judgment and award is liable to be set aside to the extent of payment of interest.

4 On the other hand the learned counsel for the Respondent-Claimants makes a statement that her clients have no objection if the First Appeal is allowed to the extent of payment of interest on compensation @ 12% p.a.

5 Both the counsel tendered consent minutes of order dated 25.09.2019 duly signed by them. Same are taken on record and marked "X" for identification.

6 Hence, by consent of the parties, the First Appeal is partly allowed as under:

- a. The impugned judgment and award is partly allowed to the extent, the Insurance Co. is not liable to pay interest @ 12% p.a. on the compensation amount of Rs.4,26,510/-.
- b. Liberty granted to the Respondent-Claimants to withdraw sum of Rs.4,26,510/- along with accrued interest from the date of deposit without furnishing any security.
- c. The Appellant Insurance Co. is entitled to withdraw the remaining amount without furnishing any security.
- d. First Appeal stands disposed of accordingly.
- e. No order as to costs.
- f. The pending Civil Application stands dismissed as infructuous.

(K.K.TATED, J.)