

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***CIVIL APPELLATE JURISDICTION*****CIVIL APPLICATION NO. 1455 OF 2014****IN****FIRST APPEAL NO. 386 OF 2017****ALONGWITH****CIVIL APPLICATION NO. 3846 OF 2019****IN****FIRST APPEAL NO. 386 OF 2017****Bajaj Allianz Gen. Insurance Co. Ltd.****..... Applicant/
Appellant****VERSUS****Ramniwas Vrindavan Singh & Anr.****..... Respondents**

Mr.M.M.Sathaye for the Appellant in the FA/386/2017 and for the Applicant in CAF/1455/2014 and for the Respondent in CAF/3846/2019.

Mr.A.M.Gokhale for the Respondent no.1 in FA/386/2017 and for the Applicant in CAF/3846/2019.

CORAM : R.D. DHANUKA, J.**DATE : 9th DECEMBER, 2019****P.C.**

By a separate order passed by this court, first appeal is admitted. Civil application is allowed in terms of prayer clause (a) on the condition that the appellant deposits the entire amount before the learned Commissioner for Workmen's Compensation & Judge, 3rd Labour Court, Mumbai in Application (WCA) No. 454/C-131/2010 with the learned Commissioner for Workmen's Compensation & Judge with interest upto the date of deposit within four weeks from today if not already deposited. If the amount is not deposited, the same shall be deposited within the time prescribed. If the amount is not deposited within the time prescribed, interim stay granted by this court to stand vacated without further reference to court.

2. Mr.Gokhale, learned counsel for the respondent no.1 (original applicant) in Civil Application No. 3846 of 2019 seeks liberty to withdraw the entire amount with accrued interest that would be deposited by the appellant if not deposited so far.

3. In the facts and circumstances of this case, I am inclined to permit the applicant to withdraw 50% of the amount that would be deposited by the appellant if the amount is not deposited so far on furnishing undertaking before the learned Commissioner for Workmen's Compensation to the effect that if the appellant succeeds in the first appeal, the applicant would return the said amount as this court may direct. Such undertaking shall be filed within four weeks from the date of the appellant depositing the amount if not deposited and communicating the factum of the deposit to the applicant's advocate with a copy to be served upon the appellant's advocate simultaneously. If the undertaking is not rendered within the time prescribed, the learned Commissioner for Workmen's Compensation to invest the amount that is already deposited and if not deposited that would be deposited within the time prescribed in the fixed deposit of a nationalized bank initially for a period of two years and thereafter for a like period after obtaining further orders from this court.

4. Both the civil applications are disposed of on the aforesaid terms. No order as to costs.

5. The parties as well as the learned Commissioner for Workmen's Compensation to act on the authenticated copy of this order.

6. Liberty is granted to the respondent no.1 to apply for vacating

this order on the ground that appellant has not deposited, the entire decretal amount before filing the appeal under proviso to 30 of the Workmen's Compensation Act.

7. If any such application is filed, it would be considered on its own merits.

[R.D.DHANUKA, J.]