

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

CIVIL APPLICATION (CAO) NO. 1667 OF 2018

with

CIVIL APPLICATION (CAF) NO. 1322 OF 2018

with

CIVIL APPLICATION (CAF) NO. 1320 OF 2018

in

FIRST APPEAL (ST.) NO. 4310 OF 2018

[Vinod s/o Ganpat Mohitkar Vs. Pratibha wd/o Pravin Tonge and ors.]

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri R. S. Naktode, Advocate for the appellant
Shri R. D. Bhuibhar, Advocate for respondent no. 6.
Ms. M. S. Naik, AGP for respondent no. 7.

CORAM : M. G. GIRATKAR, J.

DATE : 24/06/2019

Heard learned Advocate Shri Naktode for the appellant. He has submitted that appeal be registered as indigent person. The appellant has no sufficient source of income to enable him to pay court fee.

Learned Advocate Shri Bhuibhar for respondent no. 6 and learned AGP Ms. Naik for respondent no. 7 pointed out Section 30 of the Employee's Compensation Act, 1923.

As per the provision of Section 30 sub-clause 3, appeal cannot be entertained without any certificate by Commissioner stating therein that employer has deposited the amount payable under the order appealed against.

Proviso of sub-section 1 of Section 30 of the Employee's Compensation Act, 1923, reads as under:

“Provided further that no appeal by an employer under clause (a) shall lie unless the memorandum of appeal is accompanied by a certificate by the Commissioner to the effect that the appellant has deposited with him the amount payable under the order appealed against”.

There is no dispute that appellant has not paid any amount of compensation before the Commissioner. The certificate of the Commissioner is not produced alongwith appeal.

In view of the mandatory provision under Section 30 of the Employee's Compensation Act, 1923, appeal cannot be entertained.

In view of the above, appeal and applications are disposed of with no order as to costs.

JUDGE

SMGate