

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1316 OF 2020
IN
FIRST APPEAL (ST.) NO.9167 OF 2019

Narayan Sawanta Mali and Another ...Applicants

vs.

United India Insurance Co. Ltd. and Another ...Respondents

Mr. Bhushan Walimbe, for Applicants/Ori. Respondents.

Mr. Amol Gatne, for the Respondents/Ori. Appellants.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 05, 2021

P.C.:

1. Heard the learned counsel for the parties.

2. This application is preferred by the applicants/original claimants seeking permission to withdraw the entire amount of compensation deposited by the respondent No. 1-appellant pursuant to the judgment and award passed by the Commissioner for Employees' Compensation and Judge, Labour Court, Sangli in Application in WCA No.28/B-7/2011.

3. The learned counsel for respondent No. 1- appellant resisted the prayer for withdrawal of the compensation amount deposited by the appellant-insurer.

4. It was submitted that a serious issue about the liability of the insurer to satisfy the claim is raised in the instant appeal in as much as the deceased was stated to be in employment with the

opponent No. 1, who is the real brother of the deceased.

5. In the backdrop of the issues raised in the instant appeal, the applicant may not be permitted to withdraw the amount of compensation lest prejudice would be caused to the appellant-insurer, urged Mr. Gatne, learned counsel for the appellants.

6. The issues raised on behalf of the appellants in the appeal, can be legitimately considered at the final hearing and adjudication of the appeal. The applicant Nos. 1 and 2 are in their 60s. The claim of the applicant that they require the amount to support he necessities of life cannot be said to be unreasonable. The concern of the appellant-insurer can be taken care by allowing the applicants to withdraw a portion of the amount subject to an undertaking. Hence, the following order.

ORDER

1] The application stands allowed.

2] The applicants are entitled to withdraw 50% of the claim amount awarded by the Commissioner for Employees' Compensation and Judge, Labour Court, Sangli along with interest accrued thereon, subject to furnishing an undertaking before the Commissioner for Employees' Compensation and Judge, Labour Court, Sangli to bring back the amount in the event the appeal is allowed and it is held that the applicants-claimants are not entitled to the compensation.

(N. J. JAMADAR, J.)