

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.499 OF 2021
IN
FIRST APPEAL NO.98 OF 2021

**VISHAL
SUBHASH
PAREKAR**

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VISHAL SUBHASH
PAREKAR

Date: 2021.12.17
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New India Assurance Co. Ltd.

vs.

Lembo Jogare Purty and Anr.

...Appellant

...Respondents/
Ori. Claimants

Mr. D.S. Joshi, for the Applicant.

Mr. T.J. Mendon, for the Respondent No. 1.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 17, 2021

P.C.:

1. Not on board. Upon mentioning taken on production board.
2. Heard the learned counsel for the applicant.
3. Issue notice to the respondents.
4. Mr. Mendon, learned counsel waives notice for the respondent No. 1.
5. The learned counsel for the applicant submits that the applicant/appellant has deposited the entire amount of compensation along with the interest accrued thereon in terms of the impugned judgment and award passed by the Commissioner for Workmen's Compensation, Mumbai in Application (WCA) No. 254/B-53 of 2017 dated 13th December, 2019. The learned counsel further submits that respondent No. 1 has filed withdrawal application.

6. The learned counsel for the respondent No. 1 opposed the prayer of stay.

7. It was submitted that respondent No. 1 is suffering from serious ailments and respondent No. 1 requires the amount for the necessities of life, urgently.

8. Mr. Mendon, learned counsel for respondent No. 1 further submitted that in view of the provisions contained in section 30 of the Employees Compensation Act, the appeal can only be entertained if a substantial question of law is involved.

9. Indeed, the submission on behalf of respondent No. 1 deserve consideration. However, at this stage, till the question of admission of the appeal is decided, it would be necessary to grant stay to the execution, operation and implementation of the impugned judgment and award, with liberty to the applicant/respondent No. 1 to withdraw a portion of the amount of compensation deposited by the applicant.

Hence, the following order.

ORDER

1] The execution, operation and implementation of the judgment and award passed by the Commissioner for Workmen's Compensation, Mumbai in Application (WCA) No. 254/B-53 of 2017

dated 13th December, 2019 stands stayed till further orders.

2] Respondent No. 1/ original applicant is permitted to withdraw 50% amount of the compensation along with interest accrued thereon on furnishing an undertaking before the Commissioner to bring back the said amount in the event the appeal is allowed and it is held that the applicant is not entitled to compensation.

3] The application stands disposed of.

4] Appeal be listed for admission on 24th January, 2022.

(N. J. JAMADAR, J.)