

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

INTERIM APPLICATION NO. 1390 OF 2021

IN

FIRST APPEAL (ST.) NO.21342 OF 2018

Chendeya Hauda Munda @
Herenj and ors.

.... Applicants

In the matter between :-

The New India Assurance Company
Limited, Mumbai

.... Appellant

v/s.

Chendeya Hauda Munda @
Herenj and ors.

.... Respondents

WITH

CIVIL APPLICATION NO. 2873 OF 2018

IN

FIRST APPEAL (ST.) NO.21342 OF 2018

WITH

FIRST APPEAL (ST.) NO.21342 OF 2018

The New India Assurance Company
Limited, Mumbai

.... Applicant/Appellant

v/s.

Chendeya Hauda Munda @
Herenj and ors.

.... Respondents

Mr. T.J. Mendon for the Applicants.

Mrs. Poonam Mittal for the Respondent / Original Appellant.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 02nd JULY, 2021.

P. C. :-

ORDER IN INTERIM APPLICATION NO. 1390 OF 2021 :-

. The Applicants who are the parents and siblings of the deceased-

Somra Chendeya Herenj @ Munda have filed this Application for withdrawal of compensation deposited by the Appellant – Insurance Company as per the judgment and award dated 21/04/2017 passed by the Commissioner for Employees, Compensation & Judge, Fourth Labour Court, Thane in Application (WCA) No.263/B-67/2015. By the impugned judgment, the Commissioner of Employees has awarded compensation of Rs.8,67,640/- with interest @ 12% p.a. from the date of accident till final realization.

2. The Appellant-Insurance Company has challenged the impugned order mainly on the ground that there was no employer-employee relationship and further for breach of terms and conditions of the policy. Having perused the records and upon considering the grounds raised in the Appeal memo and the reasons stated in the Application, the Applicant Nos.1 and 2 are permitted to withdraw 10% each of the compensation along with proportionate interest accrued thereon and the Applicant Nos.3, 4 and 5 are permitted to withdraw 5% each of the compensation along with proportionate interest accrued thereon. Suffice it to say that that the withdrawal shall be subject to the final outcome of the Appeal. The Applicants shall give an undertaking before the Tribunal that they shall abide by the order that may be

passed in the Appeal.

3. Interim Application No.1390 of 2021 stands disposed of.

ORDER IN CIVIL APPLICATION NO. 2873 OF 2018 :-

4. Not on board. With consent, taken on board.

5. The Applicant/Appellant herein has sought to condone the delay of 358 days in filing the Appeal. Mr. T.J. Mendon, learned counsel for the Applicants states that the Appellant – Insurance Company has not made out sufficient ground for condoning the delay.

6. Having perused the records and particularly the reasons stated in paragraph 3 of the Application, the delay is ordered to be condoned. Appeal be registered and listed 'for admission' after removal of office objections, if any.

7. Civil Application No.2873 of 2018 stands disposed of.

ORDER IN FIRST APPEAL (ST.) NO.21342 OF 2018 :-

8. Mr. T.J. Mendon, learned counsel waives service on behalf of Respondent Nos.1 to 5. Appellant to take steps to serve Respondent

No.6. Appeal be listed 'for admission' on **27/08/2021**.

(SMT. ANUJA PRABHUDESSAI, J.)