

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

76 CIVIL APPLICATION NO.12253 OF 2022
IN FIRST APPEAL NO.1555 OF 2022

SAINATH PRAKASH GUDPE
VERSUS
SHRIWARI INDUSTRIES (BRICKS) M.I.D.C. AND ANR.

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Mr. V.G. Kodale h/f Mr.V.D. Gunale, advocate for applicant.
Mr.S.S. Bora, advocate for respondent nos.1 and 2.

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CORAM : S.G.DIGE, J.
DATE : 26.09.2022

P.C. :

. Heard learned counsel for the applicant and learned counsel for respondent nos.1 and 2.

2. The learned counsel for the applicant submits that respondent nos.1 and 2 have challenged the judgment and award passed by the Commissioner for Employees Compensation and Judge, Labour Court, Nanded and have deposited entire award amount along with accrued interest thereon before the Commissioner for Employees Compensation. The applicant is poor person. He is not having any source of income and due to this, he is suffering from starvation. The applicant has suffered with a grievous injury at the time of doing his duty under the employment of respondents on brick machine and therefore, he lost his right hand and he become handicapped, hence he is unable

to do the work for getting amount for his livelihood. Hence requested to allow the application.

3. The learned counsel for respondent nos.1 and 2 submits that the respondents have disputed the relationship of the employer and employee between the applicant and the respondents. If the applicant is permitted to withdraw the amount and respondents succeed in the appeal, it would be difficult for the respondents to recover the amount. Hence requested to dismiss the application.

4. I have heard both the learned counsel.

5. The Commissioner for Employees Compensation and Judge, Labour Court has observed that there was employer and employee relationship between the applicant and the respondents. Right hand of the applicant is amputated below shoulder due to the accident. He has no source of source of income. He needs the amount for his daily survival. Hence I pass the following order :-

ORDER

(i) The application is allowed.

(ii) The applicant is permitted to withdraw 50% amount along with accrued interest thereon out of deposited amount on furnishing usual undertaking.

(iii) The applicant is permitted to withdraw further 25% amount along with accrued interest thereon out of the deposited amount on furnishing solvent surety.

(iv) The application is disposed of accordingly.

[S.G.DIGE]
JUDGE

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