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

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 277 OF 2020**

**WITH**

**CIVIL APPLICATION NO. 3065 OF 2018**

**IN**

**FIRST APPEAL NO. 277 OF 2020**

Mr. Janardan Agarwal Chairman & Anr.

....Appellants/Applicant

vs

Mr. Rajkumar Brijlal Singh Gond

.....Respondent

**WITH**

**INTERIM APPLICATION NO. 3344 OF 2020**

**IN**

**FIRST APPEAL NO. 277 OF 2020**

Mr. Rajkumar Brijlal Singh Gond

.....Applicant

vs.

Mr. Janardan Agarwal Chairman & Anr.

.... Respondents

Dr. D. S. Hatle, Advocate a/w. Mr. Deepak Jamsandekar, Advocate for the Appellant

Mr. K. K. Mishra , Advocate for the Respondent

**CORAM : GAURI GODSE, J.**

**DATE : 29th AUGUST, 2022.**

**P.C.**

1. This Appeal challenges the judgment and award dated 21<sup>st</sup> November, 2017 passed by the Ld. Commissioner for Workmen's Compensation and Judge, First Labour Court, Thane in Application (WCA) No. 51/C-10/2017. By the impugned order the application of the respondent for compensation under section 4 of the Employees Compensation Act, 1923 is allowed and the appellants are directed to pay compensation of Rs. 5,24,328/- with 12% interest from the date of accident till payment to the applicant. The appellant is also directed to pay 25% of the amount of compensation as a penalty to the respondent. The learned Advocate for the Appellant states that the entire amount as per the impugned order is already deposited in Labour Court.
2. The learned Advocate for the respondent states that he has withdrawn an amount of 50% of the amount which is already deposited and the remaining 50% is invested in the nationalised bank.
3. Civil Application no. 3065 of 2018 is for stay of the impugned judgment and order. Since 50% of the amount is already withdrawn by the respondent and remaining 50% is invested in nationalised bank, no further orders are required in the application. The 50% of the amount that is invested shall remain invested till further orders.

4. So far as the First Appeal is concerned the ground of challenge is limited to the extent of disability suffered by the respondent. Learned Advocate for the Appellant states that he disputes that there is any kind of disability as recorded in the impugned judgment and further also disputes that whether appellant will be liable to pay any amount of the ground of disability suffered by the respondent. Considering the amount of compensation which is awarded and considering the short point involved in the matter it will be in the interest of both parties to decide the First Appeal finally at admission stage.

5. Learned Advocate for the Appellant states that he shall file private paper book within a period of 10 weeks from today. Since Appeal is to be decided finally at the admission stage it will be necessary to call for R & P. Hence following order is passed :

(i) Civil Application no. 3065 of 2018 is disposed of with clarification that the 50% from the amount deposited which is invested in nationalised bank shall remain invested till further orders of this Court.

(ii) With this observation Civil Application No. 3065 of 2018 is disposed of.

- (iii) In the First Appeal the Learned Advocate for the Appellant shall file private paper book containing impugned judgment, pleadings, evidence and exhibited documents, within a period of 10 weeks from today.
- (iv) Call for R & P.
- (v) Printing dispensed with.
- (vi) Since the First Appeal is not formally admitted the respondent is at liberty to file cross objections if any, in support of his submissions.
- (vii) By consent of parties First appeal shall be decided finally at the stage of admission. Place the first Appeal for directions on 25<sup>th</sup> November, 2022.

**[GAURI GODSE, J.]**