

VRJ

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

**FIRST APPEAL NO.305 OF 2019
WITH
CIVIL APPLICATION NO.1119 OF 2019
IN
FIRST APPEAL NO.305 OF 2019**

Anglo Eastern Ship Management Ltd. ... Appellant

V/s.

Natwarlal Khalasi ... Respondent

Ms. N. Sumnani i/by Bhatt & Saldanha for the
appellant.

Mr. Rishi Ashok with Mr. Prathamesh Sharma i/by
Bekay Legal for the respondent.

CORAM : AMIT BORKAR, J.

DATED : FEBRUARY 6, 2023

PC.:

FIRST APPEAL NO.305 OF 2019

1. Appeal is admitted on following substantial questions of law:

“(a) Whether the compensation d’hors the Employees Compensation Act 1963 can be awarded?;

(b) Whether Ld. Commissioner without any pleading and or evidence can determine that injury arose out of and in the course of employment thus ignoring the provisions of Section 3 of the Employees Compensation Act, 1963?;

(c) Whether compensation can be awarded to a workman in respect of a illness/disease not falling within the scope of

sub section (2) (2a) (3) of section 4 of the Employees Compensation Act 1923 (hereinafter referred to as the Act) particularly when the illness/disease was not directly due to a specific injury resulting from an accident arising out of and in the course of his employment?;

(d) Whether an Application filed under the Employees Compensation Act 1963, is maintainable when compensation is claimed under a Collective Bargaining Agreement?;

(e) Whether compensation can be granted beyond the ceiling on wages fixed by the Act and more specifically under Section 4(b);

(f) Whether hypertension can be treated as being directly attributable as a specific injury by accident arising out of and in the course of the employment especially where in the entire pleading no case is made out that the hypertension resulted from the nature of the Respondent's duties?;

(g) Whether a workman who is diagnosed with known hypertension can claim that the same as an "injury" by an accident arising out of and in the course of his employment?;

(h) Whether any medical evidence or material is produced by the workman suggesting that hypertension from which he was admittedly suffering was caused by any specific injury arising out of an accident during the course of employment?."

2. The appellant to file private paper book within one (1) year from today, failing which the first appeal shall stand dismissed without further reference to the Court.

CIVIL APPLICATION NO.1119 OF 2019

1. The applicant has filed present application seeking stay of impugned judgment and award. The appellant has already deposited an amount of Rs.6,33,360/- as per order dated 17th

December 2018.

2. Having heard learned advocates for the parties, in my opinion, considering the facts of the present case, the respondent is entitled to withdraw 50% of the amount, subject to filing of undertaking in this Court within four (4) weeks from today.

3. Hence, following order:

a) The application is allowed in terms of prayer clause (c).

b) The respondent is permitted to withdraw an amount of Rs.6,33,360/- along with interest accrued, if any, subject to filing of undertaking within four (4) weeks from today, stating that in case the appellant succeeds in the appeal, he shall reimburse the amount withdrawn along with interest at prevalent bank rate.

4. The civil application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)