

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 246 OF 2017
IN
SUIT NO. 244 OF 2016**

Seemantini Amit Khandekar and others ... Applicants/Plaintiffs
vs.
Unichem Laboratories Limited ... Respondent/Defendant

Mr. Mandar Soman for applicants/plaintiffs.

Mr. Hemant Telkar for respondent/defendant.

**CORAM : MANISH PITALE, J
DATE : 9th JUNE, 2023**

P.C. :

1. The plaintiffs have approached this Court seeking decree for a specific amount towards compensation and damages by invoking the Fatal Accidents Act, 1855, alleging that the husband of plaintiff No.1 died due to an accident in the premises of factory of defendant on 22.09.2014, due to negligence of the defendant. This is denied by the defendant.

2. Be that as it may, in the present Notice of Motion, it is brought to the notice of this Court that the defendant deposited an amount of Rs.7,63,240 under the provisions of Employees Compensation Act, 1923, before the Commissioner, pursuant to an inspection report, which directed the defendant to deposit such an amount. It is specifically pleaded in the plaint that the plaintiff did not initiate any proceedings under the Employees Compensation Act, 1923 and that such amount stood deposited by the defendant before the Commissioner.

3. In this Notice of Motion, the plaintiffs have prayed for a direction to transfer the amount deposited by the defendant with the Commissioner alongwith accrued interest in this Court and thereupon, for a further direction allowing the plaintiffs to withdraw such amount on ad-hoc basis.

4. Although, the defendant is opposing the prayer made in the Notice of Motion, this Court is of the opinion that since the aforesaid amount stood deposited before the Commissioner, under the provisions of the Employees Compensation Act, 1923, there can be no impediment in directing transfer of the said amount to this Court and then the same being disbursed to the plaintiffs, in the interest of justice and considering the peculiar facts of the present case. The question as to whether the defendant is liable to pay amounts as prayed in the present suit under the Fatal Accidents Act, 1855, would be addressed in the present proceedings, when the suit goes to trial, but till then, the plaintiffs cannot be left high and dry.

5. The amount lying before the Commissioner, which has been deposited by the defendant, can therefore be permitted to be disbursed to the plaintiffs.

6. In view of the above, the Notice of Motion is made absolute in terms of prayer clauses (a) and (b), which read as follows:

- “(a) that pending the hearing and final disposal of the suit, this Hon’ble Court, be pleased be transfer the amount deposited by the Defendant with the Commissioner of the Employees Compensation Act, 1923 along with accrued interest to this Hon’ble Court;
- (b) that pending the hearing and final disposal of the suit, this Hon’ble Court be pleased allow the plaintiffs to withdraw the amount transferred to this Hon’ble Court on ad-hoc basis;”

7. The plaintiff would be at liberty to produce a copy of this order before the office of the Commissioner under the Employees Compensation Act, 1923, to expedite the process of transfer of amount, so deposited with accrued interest, before this Court. The said authority is expected to act expeditiously.

8. Upon such amount being transferred to this Court, the Prothonotary and Senior Master of this Court shall take necessary steps at the earliest for complying with the direction given as per prayer clause (b) of this Notice of Motion.

9. Notice of Motion is disposed of.

(MANISH PITALE, J)

Priya Kambli