

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 3774/2021 IN
FIRST APPEAL ST. NO.3772 OF 2021

The Oriental Insurance Co. Ltd., Thr. Its Manager/Office In Charge, Nagpur
Vs
Jyoti Wd/O Yogesh Ingole And Others

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr A.W. Paunikar, Advocate for the appellant/applicant.

Mrs U.A. Bhattad, Advocate for the respondent Nos. 1 and 3.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27/02/2023.

1. Heard.
2. By this application, the appellant/insurance company is seeking stay to the effect, operation and execution of the impugned judgment and award passed by the Commissioner, Under Employee's Compensation Act, 1923 and Judge, 2nd Labour Court, Nagpur.
3. Mr A.W. Paunikar, learned Advocate for the appellant submitted that he had already deposited the amount of Rs. 13,07,272/- before the Commissioner, however, he has yet to file the certificate to that effect. The copy of the Pursis is produced on record which is taken on record and marked as Exhibit – 'A' for identification.
4. The appellant to file certificate within a period of two weeks.

5. As the amount has already been deposited the effect, operation and execution of the impugned judgment and awarded be stayed till the final disposal of the appeal.

Civil application (CAF) No. 3774/2021 is disposed of.

Civil Application (CAF) No. 467/2022

By this application, respondent Nos.1 to 3 are seeking permission for withdrawal of the amount.

2. As per the contention of the respondents, the Commissioner under the Employee's Compensation Act, 1923 and Judge, 2nd Labour Court, Nagpur, as already awarded the compensation amount, however, they have not received any amount towards the said compensation. They have lost their earning hand in the accident, they are facing financial crises. Hence, they be permitted to withdraw the amount.

3. The said application is strongly opposed by the learned Advocate for the appellant Mr A.W. Paunikar. On the ground that admittedly there was employee employees relationship, however, offending vehicle MH-31-DV-5843 is alienated/transferred to the third person i.e. Seva Automotive. Thus, there was no brevity of contract between the insurance company and Seva Automotive. Therefore, the application deserves to be rejected.

4. Heard both sides. Perused the application.

5. The fate of the appeal will be considered after hearing the appeal at length. At this stage, it will be appropriate to permit the respondent Nos.1 to 3 who are legal heirs of the deceased to withdraw 50% of the amount on usual undertaking.

6. In view of that, the respondent Nos. 1 to 3 are permitted to withdraw the 50% amount of compensation on furnishing usual undertaking.

7. The amount be disbursed on due identification on verification.

The civil application No. 467/2022 is disposed of.

JUDGE