

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

**CIVIL APPLICATION (CAF) NO. 749/2023 IN**  
**FIRST APPEAL ST. NO.19154/2022**

Shri. Shakti Singh Shekhhavat And Other  
**Vs**  
Raghunath Singh S/O Mahabali Singh Gaherwar And Others

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

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Court's or Judge's Order

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Mrs Dr. R.S. Sirpurkar, counsel for the appellants.

Mr Subhash Kalbande, counsel for the respondent Nos. 1 and 2..

**CORAM : URMILA JOSHI-PHALKE, J.**  
**DATED : 15/03/2023.**

1. Heard.
2. By this application, the appellants are seeking time to deposit the remaining amount of compensation.
3. Learned counsel Mrs Sirpurkar submitted that appellants have preferred this appeal against the judgment and award passed by the learned Commissioner under the Employee's Compensation Act. She submitted that though the Commissioner has directed the appellants to deposit the amount of Rs. 8,39,680/- towards compensation in respect of death of deceased Workman-Krishna Bhagwansing, due to the paucity of funds, they are unable to deposit the entire amount of compensation.
4. The learned trial Court has also recorded that non-applicant Nos. 1 and 2 have already deposited an aggregate

amount of Rs. 4,11,800/- in two installments and therefore, now only applicant Nos. 1 to 3 are directed to pay the remaining amount of Rs. 4, 27,880/-.

5. She submitted that in fact, the appellants are not liable to pay compensation. However, she is not disputing the statutory provision that in view of Section 30 proviso-3, the appellants have to deposit the entire amount of compensation, but due to the paucity of funds, they are unable to deposit the entire amount of compensation along with accrued interest, therefore, she prayed for time of two months to deposit the same.

6. Mr S.A. Kalbande, learned counsel for respondent Nos. 1 and 2, by waiving notice, raised an objection that in view of mandatory provision, the appellants have to deposit the amount, otherwise the appeal is not maintainable. To support his contention, he placed reliance in the case of Sasa Enterprises Vs Pramod Kumar<sup>1</sup>.

7. Heard both the sides. There is no dispute that in view of Section 30, Proviso-3, the maintainability of the appeal by the employer is barred unless the memo of appeal was accompanied by certificate issued by the Commissioner that the appellant had deposited the fee, the amount payable under the order appealed against.

8. In the present case, the appellants have already deposited the 50% amount before the Commissioner under

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the Employee's Compensation Act. The appellants have already shown their readiness and willingness to deposit the amount, however, due to financial crises, they are unable to deposit the amount.

9. At this stage, the learned Counsel for the appellants has made a request for grant of time and to exempt the appellants at this stage for filing of the said certificate.

10. In view of the reasons mentioned in the application, the appellant is permitted to deposit the remaining balance amount along with accrued interest within a period of two months from today.

Civil application is disposed of.

**First Appeal St. No. 19154/2022**

The First Appeal be registered.

2. Issue notice to the respondent Nos. 3 and 4, returnable in two weeks.

3. Mr J.S. Kalbande, learned counsel waives service of notice on behalf of respondent Nos. 1 and 2.

4. The appellant is permitted to serve the notice by all modes of service.

**Civil Application (St.) No.19158/2022**

Issue notice to the respondent Nos. 3 and 4, returnable in two weeks.

2. Mr J.S. Kalbande, learned counsel waives service of notice on behalf of respondent Nos. 1 and 2.

3. The appellant is permitted to serve the notice by all modes of service.

**JUDGE**