



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

**917 CIVIL APPLICATION NO. 3743 OF 2024
IN FA/3901/2023
WITH
CIVIL APPLICATION NO. 12489 OF 2023
IN FA/3901/2023**

Bharat Shivaji Khatane & Ors.

Vs.

**The President Jawahar Shetkari Sahakari Sakhar Karkhana Ltd.
Kolhapur And Anr**

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Advocate for Applicant : Mr. S.R. Shirsat

Advocate for appellant in appeal : Mr. V.P. Golewar h/f. Mr. A.R. Joshi

Advocate for Respondent 2 in appeal : Mr. S.B. Choudhari

Advocate for Respondent 3 in appeal : Mr. V.R. Mundada

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CORAM : KISHORE C. SANT, J.

Dated : June 13, 2024

PER COURT :-

1. Heard the learned advocate for the parties.
2. Civil Application No. 3743/2024 is filed by the original claimant for withdrawal of amount deposited by the appellant/employer in this Court.
3. The applicant is the injured claimant, who had filed claim petition under Employees Compensation Act, which was allowed by the learned Commissioner, Beed by judgment and order dated 5.8.2023 in Application WCA No. 32/2020 (कामगार नुकसान भरपाई अर्ज क्र. 32/2020). The learned Commissioner by judgment and order, awarded total compensation of Rs.10,85,274/- including the medical expenses

of Rs. 1,86,800/-. The employer has filed appeal in this Court, challenging the said judgment and award.

4. The learned advocate for the appellant vehemently opposes the application, stating that there are good grounds involved in the appeal. The claimant has not proved that he received injuries while he was on duty. Theory of notional extension is wrongly applied by the learned Commissioner. The applicant received accidental injury in the State of Karnataka and it is not satisfactorily proved that as to why he had been to that place when his native place and residence both are situated in Maharashtra. He, thus, submits that there are chances of success in the appeal and opposes the application for withdrawal of amount.

5. Considering that the claimant's case is accepted by the learned Commissioner, it is seen that the claimant was admitted in the hospital, he has also suffered various injuries and there is also prima facie evidence appreciated by the Commissioner on the ground of medical evidence, it would not be proper to deprive the applicant from the amount of compensation.

6. Hence, the applicant is entitled to withdraw 50% of the amount deposited in this Court by furnishing an undertaking that in case, the appeal is allowed, he shall re-deposit the said amount with interest within twelve weeks from the date of said judgment. 25% of the amount shall be withdrawn by the applicant on furnishing security to the satisfaction of the learned Commissioner, Beed. The learned

Commissioner, Beed working under the Employees Compensation Act is directed to disburse the amount with above terms. Remaining 25% compensation amount shall be kept in fixed deposit, to be renewed from time to time till the disposal of the appeal. The application is disposed of.

(KISHORE C. SANT, J.)

ssc/