

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1152 OF 2024
IN
FIRST APPEAL NO.917 OF 2023

Khairun Rahiman Mulla and Ors. ... Applicants/Appellants
V/s.
Ritesh Lilachand Raigandhi Shaha ... Respondents
and Anr.

Mr. Bhushan Walimbe, for the appellants.
Mr. Akshay Kulkarni with Avesh Ghadye, for the applicants.

CORAM : KISHORE C. SANT, J.

DATE : 22ND APRIL 2024.

PC:

1. Heard.
2. This application is preferred for withdrawal of the amount of compensation along with interest i.e. deposited by the appellant in the trial Court i.e. The Commissioner for Employees Compensation and Judge, Labour Court, Sangli. The learned Commissioner by way of impugned judgment and order dated 19.07.2023 had directed all the opponents to pay the claimants an amount of Rs. 13,36,260/- along with 12% interest and opponent no. 3 shall pay 25% penalty amount

of compensation. Only Opponent Nos. 1 and 2 have come to this Court. They oppose the application stating that these labours were working with Opponent No. 3. It is Opponent No. 3 who was engaged by the appellants. Opponent No. 3 has not come to this Court .

3. It is vehemently argued that there was no evidence before the learned Commissioner to prove the employer employees relationship. In any case, since the employer employed by Opponent No. 3, it is only responsibility of Opponent No. 3 to pay the interest and penalty amount. He opposes this application stating that if the amount is withdrawn, it would be difficult to recover the said amount in case the appeal is allowed.

4. Heard the parties. This Court finds that the claimants have succeeded before the Commissioner and still they are deprived of the fruits of order. The plaintiff were already dependent on the deceased, it would not be proper to deprive them of the amount. At the same time, I found substance in the argument of the applicant that even he is held liable they would not be liable to pay the interest. In support of his contention he relied upon the recent order passed by this Court at Aurangabad Bench in First Appeal No. 3517 of 2022 wherein the order

was modified holding the Respondent No. 3 to be liable to pay interest along with penalty. Respondent Nos. 1 and 2 shall pay remaining amount to the appellant.

5. Considering above position this Court finds that justice would be met by allowing the application. The application is partly allowed. The claimants / applicants shall be entitled to withdraw 50% amount from the amount of Rs. 13,36,260/- along with any interest, if any, after the amount is deposited in the office of the learned Commissioner by furnishing security to the satisfaction of the learned Commissioner. All the contentions are kept open to be agitated at the time of final hearing. This order to take effect after four weeks at the request of the applicant.

(KISHORE C. SANT, J)