

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 15952 OF 2023
IN
FIRST APPEAL (ST) NO. 20887 OF 2023**

New India Assurance Company. Ltd., Mumbai ... Appellant(Org Opp.
Party No. 3)

Vs.

Kamini Janardan Jathar And Ors. ... Respondents

Adv. Deepika Prabhala, i/by Res Juris, for the Appellant.

Adv. Amol Gatne, i/by Adv. S. S. Vanjari for the Respondent Nos. 1 to 3.

CORAM : KISHORE C. SANT, J.

DATE : 26th FEBRUARY, 2024

P.C.:-

1. This Application is moved for stay to the execution, implementation and operation of Judgment and award dated 04/02/2023 passed by the Ld. Commissioner for Employees Compensation and Judge, in Application ECA No. 150/B-41 of 2018.

2. The learned Commissioner by way of the Judgment and award has allowed the Claims of the Respondents. The learned Advocate submits that the Appellant has already deposited the entire amount with interest in the office of the Commissioner as required under law. She therefore, prayed for stay on the ground that once the amount is withdrawn it would be

difficult to recover in case the Appeal is allowed.

3. This Court also needs to consider that by way of impugned Judgment the Court has awarded compensation to the Respondent Nos. 1 to 3 legal heirs of deceased employees and they cannot be deprived of the fruits of the order. The Applicants have lost earning member of the family.

4. This Court therefore finds that in the interest of justice following order will be needs to be passed.

ORDER

a) The Interim Application is partly allowed.

b) There shall be stay to the impugned Judgment and award dated 04/02/2023 passed by the Ld. Commissioner for Employees Compensation and Judge, in Application ECA No. 150/B-41 of 2018, subject to the following condition.

c) The Respondents/Original Claimants are at liberty to withdraw 50% of the amount of the total amount deposited with the Commissioner Office of the ld. Commissioner along with interest accrued there upon, if any, by furnishing undertaking that in case the appeal is allowed. They will re-deposit the said amount within 8 weeks after the Judgment. The remaining 50% of the amount be deposited in a fixed deposit and to be renewed

at regular interval till disposal of the Appeal.

d) The undertaking on behalf of the Respondent No.

3(Minor) may be furnished by Respondent No. 1.

5. The Interim Application is disposed of.

6. At the outset learned Advocate of the Respondents seeks leave to correct the title cause by correcting the age of Respondents. Leave granted.

(KISHORE C. SANT, J.)