

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1949 OF 2024
IN
FIRST APPEAL STAMP NO. 23226 OF 2022

The New India Assurance Co. Ltd

... Appellant

Vs.

Lovedeep Singh S/o. Savinder Singh Nath And

... Respondents

Anr.

Adv. Deepika Prabhala, i/by Res Juris, for the Appellant/Applicant.
Adv. Amol Gatne, i/by Adv. S. S. Vanjare for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 26th FEBRUARY, 2024

PC:-

1. This Application is moved seeking stay to the execution, implementation and operation of Judgment and award dated 12.05.2022 passed by the Ld. Commissioner for Employees Compensation and Judge, Mumbai in Application (ECA) no. 24/ C-11 of 2017, injury claim of the Respondent No. 1 came to be allowed.
2. The Court directed to pay an amount of Rs. 10,41,168/- along with interest @ 12% per annum to the Respondent No. 1. The amount is already deposited as required by law.
3. The learned Advocate for the Applicant submits that the

relationship of the employer employee has not been proved. He further submits that even the Applicant has not suffered 100% injury as claimed and held by the learned Commissioner. He submits that the arguable case is made out, if the stay is not granted it will cause prejudice to the Applicant/Company.

4. The learned Advocate for the Respondent No. 1 vehemently opposed the Application, he submits that learned Commissioner has rightly considered the Application and has passed the Judgment and Order there is sufficient evidence on record to substantiate the case of the Claimant. Having succeeded in his claim it would not be proper to deprive of the fruits and prays for rejection of the Application.

5. This court finds that in this case the Claimant has received the injury the learned Commissioner has considered the evidence laid by the parties before it. It would not be proper to deprive the claimants of the amount of compensation. The following order will be pass.

ORDER

- a) The Interim Application is partly allowed.
- b) There shall be stay to the Judgment and award dated 12.05.2022 passed by the Ld. Commissioner for Employees Compensation and Judge, Mumbai in Application (ECA) no. 24/ C-11 of 2017, subject to the following condition.

c) The Claimant/Respondent No. 1 is at liberty to withdraw 50% of the amount along with interest, if any accrued there upon.

d) The Claimant/Respondent No. 1 to furnish undertaking to the satisfaction of the learned Commissioner that in case the appeal is allowed. He shall re-deposit the entire amount withdrawn by him within 8 weeks from the date of such Judgment. The remaining 50% of the amount be deposited in a fixed deposit to be renewed at regular interval in disposal of the Appeal.

6. The Interim Application stands disposed of.

(KISHORE C. SANT, J.)