

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.9702 OF 2024
IN
FIRST APPEAL (ST) NO.144 OF 2024

Dhanaji Shrirang Pisal & Anr. Applicants

V/s.

Reliance General Insurance Co. Ltd., Respondent
Mumbai

WITH
INTERIM APPLICATION NO.68 OF 2024
WITH
INTERIM APPLICATION NO.69 OF 2024
IN
FIRST APPEAL (ST) NO.144 OF 2024

Reliance General Insurance Co. Ltd., Applicants
Mumbai

V/s.

Dhanaji Shrirang Pisal & Anr. Respondent

Mr.Yuvraj Nanekar, for the Applicant and for the Respondent in
First Appeal.

Mr.Pandit Kasar, for the Respondent and for the Appellant in
First Appeal.

CORAM : ARUN R. PEDNEKER, J.

DATE : 25th JUNE 2024

P.C:-

. Heard learned counsel for the parties.

2. The present Appeal is filed by the Insurance Company primarily on the ground that the disability suffered by the Claimant is 70% ,whereas the Tribunal has considered functional disability of 100%. He also submits that the Claimant was partly responsible for the accident so also Insurance Company challenges the quantum. The challenge in quantum is primarily because of nature of injuries.

3. With the assistance of the learned counsel for the parties, I have gone through the judgment more particularly paragraph No.34, which is noted below :

“Paragraph-34-PW 3 Dilip is distillery incharge in the Sugar Factory. He adduced evidence on the job site of the petitioner. He stated that the distillery is in height of 27 meters, having 4 stages of 6 meters, of 3 meters each. There are pressure reading meters at every stage. The Distillery Chemist required to go at least 12 to 15 times at every stage to record the meter reading and to verify the functioning is smooth or not. He further stated that the Distillery Chemist is responsible to control the whole disability. His job is not sitting work but to walk here and there. He was asked to whether process log-book is available, to which he replied affirmative. However, notice is not issued to produce the said document/ register. Therefore, his evidence could not be shattered in the cross-examination.”

4. The Tribunal has held that the Claimant lost the job as a Distillery in-charge in a Sugar Factory. On account of the injury he is specifically discharged from the sugar factory. As such *prima facie* it cannot be said that the Tribunal has erred in holding the functional disability at 100%. In view of the judgment of the Tribunal discussed above and the *prima facie* discussion of the nature of injury and the loss suffered by the Claimant, it is appropriate to permit the Claimant to withdraw 65% of the amount granted by the Tribunal along with accrued interest thereon, on subject to an undertaking to the satisfaction of the Presiding Officer of the M.A.C.P., Tribunal.

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5. Delay is condoned.

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6. Stay confirmed.

7. Appeal is admitted. On admission, learned counsel Mr.Yuvraj Nanekar, waives notice for Respondents.

(ARUN R. PEDNEKER, J.)