

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

**INTERIM APPLICATION NO. 10637 OF 2025
IN
FIRST APPEAL (ST) NO. 35518 OF 2023**

Smt.Savita Devi Nunulal Sah ...Applicant

Vs.

M-S. New India Assurance Co.
.Ltd. Thr. Its Manager ...Respondent

**ALONGWITH
INTERIM APPLICATION NO. 10611 OF 2024
IN
FIRST APPEAL (ST) NO. 35518 OF 2023**

New India Assurance Co. Ltd. ...Applicant

Vs.

Smt.Savita Devi Naulal Sah ...Respondent

Mr. Yogendra M. Pendse	Advocate for the Applicant
Adv. Dhanashree S. Padwal i/by Adv. Suresh R. Padwal	Advocate for the Appellant

CORAM : S. M. MODAK, J.

DATE : 20th SEPTEMBER 2025

P. C. :-

1. Heard learned Advocate for the Appellant-Insurance Company

and learned Advocate for the Claimants.

2. The learned Commissioner as per Employees Compensation Act has granted compensation to the legal representative of the deceased as per judgment dated 07.07.2023. The application was moved impleading the employer and the insurance company. The directions are as follows:-

- a) Both the opponents were held jointly and sufficiently responsible to pay compensation of Rs. 8,67,640/-.
- b) Both of them were asked to pay interest @ 12 % from the date of accident i.e. 07.04.2018.
- c) The employer was asked to pay 50% amount towards the penalty to the Applicants.

The present appeal is filed by the Insurance company. **It is solely on the ground of liability to pay interest.**

3. The submission made on the last date is recorded in the order dated 08.08.2025. Today also I have heard their submission. **Learned Advocate for the Appellant** relied upon the terms of the Workmen's Compensation Policy, on page no. 26 and the proviso. It excludes the insurer from the payment of the interest which is liable to be paid because there is a failure to pay compensation by insured. Both of them

have also invited my attention to the **observations in the judgment.**

They are as follows:-

a) In para no. 13, the learned Judge has referred about the vague pleading in the written statement.

b) In para no. 23, the learned Judge has held the insurer liable to pay interest @ 12% from the date of accident.

4. This issue will be considered on the next date. In view of fact that the appeal is only in respect of the liability to pay interest certainly Claimants can be permitted to withdraw the entire amount deposited before learned Commissioner. In view of that following order:-

(i) The interim application is allowed.

(ii) The learned Commissioner to allow Claimant to withdraw the amount deposited by the Insurance Company alongwith interest, if any.

5. Accordingly, Interim application is disposed of.

6. Matter be kept on **26th September 2025 as part heard.**

[S. M. MODAK, J.]