



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL (ST) NO.17640 OF 2019
WITH
CIVIL APPLICATION NO.2644 OF 2019
WITH
CIVIL APPLICATION NO.2643 OF 2019

The New India Assurance Co. Ltd.

...Appellant/Applicant

Versus

Laxmi Dilip Shirke & Anr.

...Respondents

Mrs. Jyoti Bajpayee for the Appellant/Applicant.

Mr. V. M. Parkar for Respondent No.1.

CORAM : JITENDRA JAIN, J.

DATE : 24 MARCH 2026

P.C.:

CIVIL APPLICATION NO.2644 OF 2019

1. This application is made by the appellant for stay of the impugned order. The learned counsel for the appellant states that they have deposited the decretal amount on 30 April 2019.

2. In the light of the same, civil application is disposed of by staying the impugned order.

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3. For the reason mentioned in paragraph 5, the delay in filing the appeal is condoned.

4. Registry is directed to number the appeal finally.

5. Civil Application is disposed of.



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6. This appeal is filed under Section 30 of the Employee's Compensation Act, 1923 which requires the appeal to be filed only if there is a substantial questions of law.

7. The appellant-insurance company is aggrieved by the order passed by the Commissioner for Employee's Compensation dated 7 July 2018. The Commissioner has given a finding that employer-employee relationship has been established and the death occurred during the course of employment.

8. Though various questions have been raised. Question no.1 is sufficient since all other questions subsumes in this question. Question no.1 reads as under :-

"Whether the learned Judge erred in holding that accident arises out of employment, overlooking the fact that the deceased died due to heart attack ?"

9. The Labour Commissioner has discussed this issue in paragraphs 5 and 6. It is not disputed that when the deceased died, he was on duty as a driver of vehicle owned by opposite party no.1. The original applicants have laid various evidence by way of police report and statement of the family members for establishing the employer employee relationship. There is no dispute that the deceased died on account of heart attack while being on duty. The job of a driver on duty is certainly a stressful job. Merely because the heart attack happened when the deceased was not driving after parking the vehicle, it cannot be said that the same is not in the course of employment. One of the main reason for the heart attack is the level of stress a person undergoes while doing his job. The working condition of the driver is stressful.



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10. In my view, the findings in paragraphs 5 and 6 are purely questions of fact and does not raise any substantial question of law. Whether the heart attack occurred in the course of employment and whether the employer-employee relationship has been established are the findings by the Labour Commissioner based on the evidence led before him. I do not find any perversity in these findings. Even if a plausible view is taken, it is settled position that same does not raise any substantial questions of law.

11. The original applicant is now entitled to withdraw the amount deposited by the appellant alongwith interest accrued thereon.

12. The appeal is dismissed for want of substantial question of law.

[JITENDRA JAIN, J.]