

**WIMALASIRI PERERA AND OTHERS**  
**v.**  
**LAKMALI ENTERPRISES DIESEL AND PETROL**  
**MOTOR ENGINEERS AND OTHERS**

SUPREME COURT  
FERNANDO, J., GUNASEKERA, J., AND  
WIGNESWARAN, J.  
SC APPEAL No. 58/2000  
PHC/WP (COLOMBO) No. HCA/LT 1692/98  
LT Nos. 1/312-314/96  
8TH MARCH, 2001

*Industrial Dispute – Appeal by employer – Failure to deposit security – Section 31 D (4) of the Industrial Disputes Act – Whether the deposit of security is mandatory.*

The employer – respondents appealed to the High Court against relief which had been granted to the workmen – appellants by the Labour Tribunal, but failed to deposit security in terms of section 31D(4) of the Industrial Disputes Act.

**Held:**

The deposit of security was mandatory; and the High Court erred in holding that the unexplained failure to deposit security did not justify the rejection of the appeal.

**APPEAL** from the judgment of the High Court.

**Case referred to:**

1. Sri Lanka General Workers' Union v. Samaranyake (1996)2 Sri LR 268 distinguished

*Sunil F.A. Cooray with Lal Perera and Dilip Obeysekera for appellants.*

*Cur.adv.vult*

March 08, 2001

**FERNANDO, J.**

In this case the Labour Tribunal had awarded the three Applicants-Respondents-Appellants Rs. 63,000/-, Rs. 30,000/-, and Rs. 48,000/-, as compensation. The Employes-Appellants-Respondents appealed to the High Court on 8/4/99 but failed to deposit security in terms of section 31 D (4). On appeal the objection was taken on behalf of the Applicants that the appeal could not be proceeded with since security had not been deposited. The Employers did not deposit security even then, nor did they tender any evidence as to the reason for that default. The learned High Court Judge held that the failure to deposit security does not warrant the rejection of an appeal.

*In Sri Lanka General Workers' Union v. Samaranyake*<sup>(1)</sup> where security was deposited seven days late, it was held that the time limit was not mandatory, and that the High Court had a discretion to entertain the appeal after considering the nature of the default, the circumstances in which it occurred, and the prejudice to the other party. That does not mean, however, that the deposit of security was not mandatory.

The High Court erred in holding that the unexplained failure to deposit security did not justify the rejection of the appeal.

I allow the appeal, set aside the order of the High Court, and restore the order of the Labour Tribunal. The applicants will be entitled to the sums awarded by the Labour Tribunal together with a further sum equivalent to 25% thereof (in lieu of interest), and costs in a sum of Rs. 5000/- (Rs. Five Thousand) each.

**GUNASEKERA, J.** – I agree

**WIGNESWARAN, J.** – I agree

*Appeal allowed.*