

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CA/12998/2015 IN FA/1473/2015

SHOBHA BHAGWAT CHATE AND OTHERS
VERSUS
ASHOK BABANRAO GIRI AND ANOTHER

...

Advocate for Appellants : Gaikwad T. G.
Advocate for Respondents : Kulkarni Sudhir V. Adv For Resp 2
Mr.Deshmukh Mohit R. Adv For Resp 1

...

CORAM : S.V.GANGAPURWALA,J.

DATED : 12TH OCTOBER, 2015

ORDER :-

Mr.Gaikwad, learned counsel submits that under the erroneous advice, applicants had filed application for compensation under the provisions of the Employees Compensation Act. The applicants be allowed to withdraw the same with liberty to file application u/s 166 of the Motor Vehicles Act. According to the learned counsel, applicants do not have documentary proof about the relationship. On technical ground, the claim of the applicants may not be negated.

2] Mr.Kulkarni, and Mr.Deshmukh, learned counsel for the respondents oppose the application on the ground that the application has been decided on merits.

3] I have considered the submissions. The factum of accident in fact is held to be proved. It appears that the claimants did not have any documentary evidence regarding establishment of relationship.

Considering the predicament applicants would be required to be given opportunity, so also considering that due to technical reasons, the claimants are being non suited and the beneficial nature of the legislation, I am inclined to consider present application and allow the same.

[S.V.GANGAPURWALA,J.]

umg/