

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

941 CIVIL APPLICATION NO. 15703 OF 2015
IN FAST/21747/2012

KHASAIR BEGUM SHABAJ KHAN PATHAN AND ORS
VERSUS

THE CHIEF EXECUTIVE OFFICER, ZILLA PARISHAD, NANDED AND
ORS

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Advocate for Applicants : Mr. Bhapkar S.B.
Advocate for Respondent No.1: Mr. S. P. Katneshwarkar
Advocate for Respondent No.5 : Mrs. Manjusha Deshpande

CORAM : A. M. BADAR, J.

DATE : 17th December, 2015

PER COURT :

1. Heard learned counsel for applicants as well as learned counsel appearing for non applicants. Perused impugned judgment and award passed by the learned Commissioner under the Employees Compensation Act, 1923.

2. Claim lodged by the present applicants on account of death of Shabajkhan Patan in an accident arising out of and in the course of employment with non applicants and was allowed by the learned Commissioner. Perusal of the award shows that non applicants Zilla Parishad Nanded and its officers did not participate in the proceedings though they had engaged Advocate to represent them. Even no written statement was filed. The learned

Commissioner, by coming to the conclusion that Shabajkhan was an employee of Zilla Parishad and its Contractor, had directed the non applicants to pay compensation on account of his death.

3. Heard Shri Bhapkar, learned counsel appearing for the applicants as well as Shri Katneshwarkar, learned counsel appearing for the Zilla Parishad, Nanded and its Officers.

4. According to Shri Bhapkar, considering fact that dependent legal heirs are of tender age, applicant widow is required to maintain them. Entire amount under the award be directed to be released in favour of the applicant. As against this, learned counsel appearing for non applicant/Zilla Parishad Nanded submits that the amount be secured by obtaining security from the applicants.

5. As the amount is under the award passed by the learned Commissioner under the Employees Compensation Act on account of death, it needs be released in favour of the applicants/dependents. Hence following order:

i. 75% amount under the award be released in favour of

applicants upon furnishing undertaking by them that in the event of allowing the appeal, they shall refund the amount within a period of one month.

- ii. 25% amount under the award be released in favour of applicants on furnishing solvent surety of the like amount.

6. Civil application is accordingly disposed of.

(A. M. BADAR, J.)

JPC