

IN THE HIGH COURT OF JUDICATURE OF BOMBAY  
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 15626 OF 2015  
IN FAST/17752/2015

SHAIKH KHALIL SHAIKH BASHR DEAD THR ITS LEGAL HEIRSABEDABI SHAIKH  
KHALIL AND OTHERS  
VERSUS  
NEW INDIA ASSURANCE COMPAN LTD.

...  
Advocate for Applicant : Mr. M. M. Bhokrikar.  
Advocate for Respondent No.1 : Mr. S. G. Chapalgaonkar.

CORAM : A.M. BADAR, J.  
DATE : 11th DECEMBER, 2015.

**PER COURT:**

1] This is an application for withdrawal of the amount awarded by the learned Commissioner for Workmen's compensation and Judge, Labour Court, Jalgaon by original claimant.

2] Heard Shri Bhokrikar, learned counsel for the applicants, as well as Shri Chapalgaonkar, for the Insurance Company. Initially, claim under Section 10 of the Employees Compensation Act, 93 was made in respect of personal injuries suffered by the claimant Shri Khalil in the course of and out of employment with his employer Ahmed Khan. With passage of time, Shaikh Khalil died and claim was prosecuted by his legal representatives.

3] According to Shri Bhokrikar, learned counsel for the applicants, even if it is assumed that the death has no nexus with the injuries suffered in the accident, still, the applicants are entitled for compensation for injury claim.

4] As against this, Shri Chapalgaonkar, submits that deceased Skhaikh Khalil died because of heart attack and as such, learned Commissioner erred in awarding compensation to claimants.

5] Considering the fact that the deceased had suffered head injury as well as injury to his leg during the course of his employment, in my opinion, applicants are entitled for withdrawal of the amount of Rs. 1 Lakh from the amount under the judgment and order of the learned Commissioner for Workmen's compensation.

6] Hence, the application is allowed to the extent of permitting the applicants to withdraw an amount of Rs. 1 Lakh out of the amount deposited by the non applicant insurance company before the Commissioner for Workmen's Compensation/Judge, Labour Court, on condition that they shall file a personal undertaking that in the event of allowing the appeal, they shall refund the amount of Rs. 1 lakh within a period of one month from the date of decision. Application is disposed of.

**[A.M. BADAR, J]**

grt/-