

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 4454 OF 2013
IN
FIRST APPEAL NO. 2450 OF 2011

Kitabunnisa Munshi Raza & Ors. ... Applicants
VS.
The New India Assurance Co. Ltd. ... Respondent

Mr. Nikhil Mehta i/b. Mr. Dilip N. Mandavia, Advocate for the applicants.
Mr. S.M. Dange, Advocate for the respondent/original appellant.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE : **AUGUST 28, 2015**

P.C.:

First Appeal No. 2450 OF 2011

The learned counsel for the appellants submitted that a substantial question of law is involved therein is as to whether there is employer-employee relationship between the deceased and the appellant.

Admit.

Civil Application No. 4454 of 2013

This Application is moved for withdrawal of amount, which was deposited by the insurance company.

2. The learned counsel for the insurance company pointed out a mistake in the names of the applicants, i.e. claimants, which are mentioned in this Application, and the names of the claimants in the original application. It is pointed out that the name of applicant no. 1

Hasmathi wd/o. Gyul Mohmed is not mentioned as claimant in the original application. He pointed out that other two original applicants, i.e. Kumari Rukhsana Munshi Raza and Master Mohd. Shamin Munshi are not appearing as applicants in this Application.

3. On verification, the objection raised by the learned counsel for the insurance company is found correct. The learned counsel for the applicants seeks permission to amend the names of the applicants in this Civil Application.

4. The learned counsel for the applicants is allowed to delete name of applicant no. 4 Smt. Hashmati Gyul Mohmed and to mention the names of original claimants, i.e., Kumari Rukhsana Munshi Raza and Master Mohd. Shamin Munshi in the Application. The amendment is to be carried out forthwith.

5. The learned counsel for the applicants submitted that the entire amount of award along with interest is deposited by the insurance company in the Labour Court, Mumbai. The amount is Rs.3,91,198/-. He submitted that the applicants are poor and were dependent on the deceased, therefore, they be allowed to withdraw the amount.

6. The learned counsel for the insurance company opposed the Application. He submitted that the insurance company has good case on merits.

7. The Application is of 2013 and till today, the applicants have not received any amount. In view of this submission, each applicant is allowed to withdraw Rs.30,000/-, thus the total amount of Rs.1,50,000/- is allowed to be withdrawn on furnishing personal undertaking before the Labour Court, Mumbai stating therein that in case the original appellant succeeds in the First Appeal, the applicants will bring back the money.

8. Civil Application is disposed of.

(MRS.MRIDULA BHATKAR, J.)