

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

**36 CIVIL APPLICATION NO. 10440 OF 2017
IN FA/1698/2017**

**SWATI CHANGDEO GHODEKAR AND ORS
VERSUS
RELIANCE GENERAL INSURANCE CO. LTD THR ITS
AUTHORISED OFFICIAL, AURANGABAD AND AN**

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Advocate for Applicants : Mr. Pratik P Kothari
Advocate for Respondent No. 1 : Mr. A. S. Usmanpurkar.

CORAM : K. L. WADANE, J.

DATE : 11th September, 2017

ORDER:

1. This is an application for withdrawal of compensation amount deposited in this Court.

2. Heard learned counsel appearing for the applicants as well as the learned counsel appearing for the respondent No. 1/Insurance Company.

3. Learned counsel appearing for the insurance company has strong objection to pay the amount of compensation mainly on the three grounds i.e. date mentioned in the postmortem report and the date of death of the deceased as has been relied by the claimants is not similar, secondly, the involvement of the vehicle itself is in dispute and thirdly, on the ground of quantum.

4. I have carefully gone through the record and proceedings and the reasons recorded by the learned Tribunal particularly in para NO. 8 and 9, from which it appears that, the date of the death of the deceased mentioned as 23.02.2015 is just a clerical and inadvertent mistake. Because, from other record it appears that, the first informant and other witnesses have stated that the accident took place on 24.02.2015.

5. I have also perused the register maintained by the concerned medical officer showing the dates of the postmortem report conducted by the medical officers. This register is maintained in very casual manner. The register showing entry of month March before the entry of month February. From which it appears that, the concerned medical officers have not properly maintained the register of the postmortem.

6. Further, it appears from the record that the concerned medical officer has deposed on the basis of documents i.e. after too much time after the accident. Therefore, it is not expected from the medical officer to depose from his memory.

7. The learned Tribunal has clarified this position in his well reasoned order. Therefore, I am of the

opinion and the fact that at present the award is in favour of the claimants, in such circumstances, at least 50 % amount of compensation can be paid to the claimants.

8. Civil application is allowed.

9. The applicants are permitted to withdraw 50 % amount of compensation deposited in this Court.

10. The amount of compensation shall be paid to applicants No. 1 and 4 by issuing separate cheques in their name.

11. Civil application is disposed of.

(K. L. WADANE, J.)

mkd