

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

933 CIVIL APPLICATION NO. 13900 OF 2017

IN FA/1407/2017

NILIMA PRAKASH KHEDKAR AND ORS

VERSUS

MUKESH PANDYA AND ANR

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Advocate for Applicants : Mr. Tambe Rahul A.

Advocate for Respondent No. 2 : Mr.S. R. Bodade.

CORAM : K. L. WADANE, J.

DATE : 8th December, 2017

ORDER:

1. This is an application for withdrawal of amount of compensation deposited by the Insurance Company.

2. Heard both the sides.

3. Learned counsel for the insurance company opposes the application and payment of entire amount of compensation to the applicants on the ground that the deceased was in the government service and aged about 56 years at the time of accident. The multiplier adopted by the learned Tribunal i.e. '9' is incorrect. Since the age of retirement of deceased was 58 years, therefore, only two years of service was remained. Considering the span/years of service at the most multiplier of '2' should have been adopted by the learned Tribunal.

4. Considering the fact that the deceased was aged about 56 years at the time of accident, salary of deceased was Rs. 22000/- per month and looking to the number of dependents and other aspects, I am of the opinion that at least half of the amount of compensation, deposited by the insurance company can be paid to the applicants on undertaking.

5. Application is allowed. The applicants are permitted to withdraw half of the amount of compensation together with accrued interest on condition that in case adverse orders are passed by this Court in the appeal, then they will redeposit the same within a period of 12 weeks from the date of order.

6. Civil application is disposed of.

7. In the First Appeal issue notice to the respondents returnable on 02.02.2018 intimating that the appeal will be decided at the stage of admission itself. Mr. Tambe, learned counsel waives service of notice for respondents No. 1 to 3.

8. Call record and proceedings, if already not called.

(K.L.WADANE, J.)

mkd