

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**CIVIL APPLICATION NO.4544 OF 2016**  
**IN**  
**FIRST APPEAL NO.1402 OF 2010**

Smt.Bitte @ Arbunnisa & Ors.

... Applicants

**IN THE MATTER OF:**

The New India Assurance Co. Ltd.

... Appellant

Vs.

Smt.Bitte @ Arbunnisa & Ors.

... Respondents

Mr.A.M. Gokhale for Applicants

Mr.S.M. Dange for the Appellant – Insurance Company

**CORAM: MRS.MRIDULA BHATKAR, J.**

**DATE: OCTOBER 31, 2017**

**P.C.:**

1. This Civil Application is filed by the original claimants for withdrawal of the amount of compensation, which was granted by the learned Commissioner for Workmen's Compensation / Judge, Labour Court vide the impugned Judgment and Award dated 29.12.2007 passed in Application (WCA) No.594/B-119 of 1998. The Claimant No.1 is a widow with two minor children. Her husband died in the accident when he was driving the motor cycle. The claim was made under the Workmen's Compensation Act that he was in the employment of opponent No.1. The learned Judge granted compensation of Rs.2,07,980/- with interest @ 6%

p.a. from the date of filing of the application. The learned Counsel for the applicants/claimants submits that the claimants be allowed to withdraw the amount deposited by the Insurance Company.

2. Learned Counsel for the insurance company while opposing the application, has submitted that this claim is a bogus claim filed by the claimants. The Insurance Company has a good case on merits as the claimants have failed to prove the employer-employee relationship between the deceased and the opponent No.1.

3. Perused the impugned judgement and award. The opponent No.1 has admitted in the written statement that the deceased was working with him as a delivery man. Considering the facts of the case, I allow the claimants to withdraw an amount of Rs.150,000/-, which is to be distributed equally amongst all the claimants. The withdrawal is permitted subject to a usual undertaking to be furnished by the claimants to the satisfaction of the learned Commissioner for Workmen's Compensation.

4. Civil Application is accordingly disposed of.

**(MRIDULA BHATKAR, J.)**