

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

CIVIL APPLICATION NO. 4185 OF 2018
IN
FIRST APPEAL [STAMP] NO. 3101 OF 2018

Babanrao Ramji Ladke and others .. Applicants

vs

The New India Assurance Company
Limited and another .. Respondents

Mr. S. V. Suryawanshi, Advocate for applicants
Mr. S. R. Bodade, Advocate for respondent no.1

CORAM : SUNIL P. DESHMUKH, J.
DATE : 27th March, 2018

ORDER :

1. Heard.
2. This is an application for withdrawal of compensation granted by the Commissioner for Employees Compensation, Hingoli. The applicants are claimants in F. A. no. 7 of 2016 before the Commissioner for Employees Compensation. Said F.A. No. 7 of 2016 had been allowed and award dated 27-09-2017 had been passed. Pursuant to the same, amount of Rs. 8,85,480/- has been deposited with the office of said Commissioner for Employees Compensation, Hingoli.

3. Learned counsel for applicants submits that applicants are parents of deceased Kashinath who had been an earning hand in the family. With his death, earning hand had been lost and the family has been facing financial crises. Their claim has been allowed and compensation is direly needed by them.

4. Learned counsel Mr. Bodade on behalf of respondent no.1 insurance company - appellant (respondent in proceedings before Commissioner for Employees Compensation, Hingoli) contends that as a matter of fact policy did not cover insurance for cleaner and labourer and deceased Kashinath had been a cleaner. In the circumstances, the liability would not be incurred by the insurance company and, therefore, appeal has been preferred by insurance company which is pending. He further contends that even the risk of trailer had not been covered under the policy. He, therefore, submits that the liability shall be at some other place and not of insurance company-appellant.

5. Although learned counsel on behalf of the appellant-insurance company has submitted so, the claimants' need as expressed is not doubted. As on the date, the award is in favour of the claimants.

6. Having regard to the facts and circumstances, it would be expedient to allow the claimants - applicants to withdraw a sum of Rs.5,00,000/- on furnishing undertaking.

7. As such, the applicants are allowed to withdraw a sum of Rs.5,00,000/- on furnishing undertaking to the satisfaction of Commissioner for Employees Compensation, Hingoli in F.A. NO. 7 of 2016 that in case decision in first appeal goes adverse to their interest, they would pay back / deposit amount being withdrawn by them under this order within a period of three months from the date of decision in the first appeal. A copy of said undertaking be furnished to this court.

8. Civil application is disposed of.

SUNIL P. DESHMUKH,
JUDGE

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