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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 5132 OF 2018
IN
FIRST APPEAL STAMP NO.32327 OF 2017

Shabbir Lala Shaikh and Others

APPLICANTS

VERSUS

United India Insurance Co. Ltd., and Others

RESPONDENTS

.....

Mr. Murlidhar S. Karad, Advocate for the applicants

Mr. V. R. Mundada, Advocate for respondent No.1

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[CORAM : SUNIL P. DESHMUKH, J.]

DATE : 13th APRIL, 2018

ORDER:

1. Heard learned advocates for the parties.
2. The applicants are claimants before Commissioner of Employees Compensation at Beed. Shaikh Mohsin, son of the applicants had been earning member in the family and he lost his life in accident which had occurred in 2014. Proceedings under the Employees Compensation Act have resulted in favour of the applicants granting them compensation of Rs.9,43,380/- with interest thereon.
3. The insurance company - appellant is before this court in first appeal questioning propriety and validity of the decision by

the Commissioner of Employees Compensation. It is being contended that it would not be the case where it can be said that there is evidence worth consideration about deceased being employee by the stated employer and further that his earning has been of the magnitude as claimed. It is further being contended on legal side that penalty is not liable to be borne by the insurance company. Learned advocate for the insurance company, therefore, resists the application for withdrawal.

4. However, looking at that the family has lost earning hand and as on the date, the award by the employees compensation commissioner is in favour of the applicants, the family being in need of economic help is not in particular in dispute and since the matter is pending, it would be expedient to allow the applicants to withdraw 50% of the amount deposited by the insurance company on furnishing an undertaking to the effect that the applicants would deposit the amount so withdrawn in case the decision in the first appeal goes against their interest, within a period of three months of such decision.

5. Civil application accordingly stands disposed of.

[SUNIL P. DESHMUKH, J.]