

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

**941 CIVIL APPLICATION NO. 9051 OF 2018
IN FA/2635/2015**

**MEERABAI AJINATH SONWANE
VERSUS
N.K.FIBER GINNING, THR PROPRIETOR N.K. KOTECHA AND
OTHERS**

...
Advocate for Applicant : Mr. Shekade Shashikant E
Advocate for Respondent Nos. 1 to 3 : Mr. S.G. Chapalgaonkar
Advocate for Respondent No.5 : Mr. S.T. Shelke.

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CORAM : V.L. ACHLIYA, J.

DATED : 20th JULY, 2018

PER COURT:-

1. The applicant – respondent no.7 has preferred this application for withdrawal of amount of Rs.68,500/- out of the amount deposited by the appellant in Special Darkhast No.35 of 2015.

2. Learned Counsel for the applicant submits that pursuant to the judgment and order dated 10.08.2018, the appellants have deposited the compensation amount of Rs.6,23,940/- in the Court of Civil Judge, Senior Division, Beed in execution proceeding. Vide order dated 12.09.2017 passed by this Court in Civil Application No.28 of 2016, respondent nos. 6, 7, 8 and 9 are permitted to withdraw the amount to the extent of Rs.2,74,000/-

with interest accrued thereon, on furnishing undertaking that in the event of adverse order passed in the appeal, they shall deposit the amount within 12 weeks and remaining amount directed to be invested in the fixed deposit for a period of 13 months.

3. Mr. Chalpalgaonkar, learned counsel for the respondent opposed the application with the contention that the appellants have good case to succeed in the Appeal as the relationship of employer and employee has been denied by the appellants. The deceased died in a motor accident due to dash given by the unknown vehicle. The alleged accident was occurred at the distance of about 150 kilometers from the place where the appellants are carrying occupation.

4. Due regard to the submissions advanced, I am of the view that arguable case exists which needs to be considered in appeal. However, looking to the fact that by an order dated 12.09.2017, other applicants have been allowed to withdraw the amount, I am inclined to pass the following order:

O R D E R

(A) Subject to final out come of the appeal, the applicant is permitted to withdraw the amount to the extent of Rs.68,500/- (Rupees Sixty Eight Thousand Five Hundred) on furnishing

written undertaking to the effect that in the event the appeal is allowed and award is set aside or modified and if the applicant is required to reimburse the amount, the applicant shall deposit the same in terms of the order to be passed in appeal within 12 weeks from date of such order. After making payment to applicant, the balance amount together with interest be invested in fixed deposit, initially for a period of five years with nationalised bank subject to renewal till disposal of the appeal.

(C) It is made clear that no further request for withdrawal of amount shall be considered from any of the applicants.

(D) The civil application is disposed of in above terms.

**(V.L. ACHLIYA)
JUDGE**

SPR