

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

24. CIVIL APPLICATION NO. 4744 OF 2019
IN FAST/4859/2019

GANGUBAI SHRIMANT SINGARE AND OTHERS
VERSUS
CHOLAMANDALAM GENERAL INSURANCE CO. LTD.,
THROUGH ITS REGIONAL MANAGER, AURANGABAD AND ANOTHER

Mr. V.B. Kulkarni, Advocate for applicants.
Mr. S.S. Dargad, Adv., h/f. Mr. S.G. Chapalgaonkar, Adv. for Respt.No.1

CORAM : V.L. ACHLIYA, J.

DATE : 15th April, 2019

PER COURT :

1. The applicants have moved this application seeking withdrawal of amount deposited by appellant-insurance company
2. Heard learned Counsel for the applicants and the learned counsel appearing for insurance company. Perused order passed by the Commissioner for Workmen's Compensation, Jalna.
3. Learned Counsel for the appellant-insurance company

opposed the application with contention that appellants have good case to succeed in appeal. He submits that from face of the record, the deceased not met with any accident during the course of employment. He submits that as per case of applicants, deceased died due to heart attack while sleeping in the truck. Learned counsel submits that in order to attract the provisions of the Workmen's Compensation Act to claim compensation, there must be an accident caused during the course of employment. In the case in hand, no such accident has taken place. The post mortem report reveals that deceased died due to cardio respiratory arrest while sleeping in the cabin of the truck.

4. On the other hand, learned counsel for applicants submits that the Commissioner for Workmen's Compensation has gone through minute details and has reached to the conclusion that death of the deceased was occurred during the course of employment due to the stress while discharging duty as driver in the employment of employer of truck.

5. Considering the submissions advanced, I am of the view that there is arguable case, which needs to be considered in appeal. In the facts and circumstances of the case and the grounds raised in appeal, I am of the view that following order would meet the ends of

justice.

O R D E R

I) Subject to outcome of appeal, applicant No.1 is permitted to withdraw the amount of Rs. 1,00,000/- (Rs. One lac only) and applicants No.4 and 5 are permitted to withdraw Rs. 50,000/- (Rs. Fifty thousand only), each, out of the amount deposited on furnishing written undertaking to the satisfaction of the Commissioner for Workmen's Compensation – Labour Court, Jalna, with condition that in case the judgment and order passed by the Commissioner for Workmen's Compensation, Jalna, is set aside or modified, the applicants shall redeposit the amount within eight weeks from the date of the order.

II) After making payment to the extent of Rs. 2,00,000/-, the balance amount together with interest accrued be invested in fixed deposit in Nationalized Bank initially for a period of 28 months with standing instructions to renew the same time to time till further orders from this Court or disposal of the appeal, as the case may be. Interest accrued over the amount invested in fixed deposit shall be paid to applicant No.1 after the interval of every three months by crediting amount of interest in her Saving Bank Account till disposal of appeal. The amount of interest to be payable

shall be utilized by applicant No.1 for the purpose of maintenance of herself and applicants No.2 to 5.

III) Civil Application is disposed of in above terms.

IV) The concerned to act upon authenticated copy of this order.

(V.L. ACHLIYA)
JUDGE

Madkar