

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

CIVIL APPLICATION NO.13424 OF 2018

IN

FIRST APPEAL NO. 4395 OF 2016.

Jijabai Pundlik Jadhav & others.

Applicants.

Versus

Reliance General Ins. Co. and anr.

Respondents.

Mr. H.I. Pathan, Advocate for the applicants.

Mr. S.S. Patil, Advocate for the respondent.

CORAM : SUNIL K. KOTWAL, J.

Dated : 2 April 2019.

ORDER :-

. This application is filed by original claimants for withdrawal of compensatory amount deposited by Insurance Company before the learned Commissioner for E.C. Act and Judge, Labour Court, Nanded.

2. Heard learned Counsel for the claimants and learned Counsel Mr. Patil for the Insurance Company. Learned Counsel for the Insurance Company vehemently objected this application

on the ground that from the copy of F.I.R. placed on record by claimants, it emerges that the deceased was travelling by Ape transport rickshaw as a gratuitous passenger. He submits that no substance is on record to show that the employer and employee relationship is established in between deceased and the employer.

3. In reply, learned Counsel for the claimants submits that initially the claimants filed claim petition before the Motor Accident Claims Tribunal, Nanded which was withdrawn by the claimants with permission of the Tribunal and filed this claim petition under Employees Compensation Act. He submits that in motor accident claim proceeding owner of the Ape rickshaw filed written statement and he admitted that the deceased was working as his cleaner. He has filed copy of written statement.

4. I have gone through copy of F.I.R. as well as copy of written statement filed by owner of Ape Rickshaw involved in the accident. At this stage it will be improper to express my opinion regarding merits of the matter. However, after going through the above two documents I think it proper to allow applicant Nos.1 to 6 withdraw 50% of the compensation amount with proportionate accrued interest deposited before the Commissioner, E.C. Act,

Nanded subject to filing written undertaking by the claimants in appeal to redeposit the withdrawn amount as and when directed by this Court. The undertaking is to be filed within 8 weeks from today. The balance compensation amount and accrued interest thereon shall be invested in fixed deposit in Nationalized Bank till final hearing of the appeal.

5. The learned Commissioner to take necessary steps to that effect.

6. Civil Application is disposed of accordingly.

(SUNIL K. KOTWAL)
JUDGE

vdd/