

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO.490 OF 2019
IN
FIRST APPEAL (STAMP) NO.28889 OF 2018**

Smt. Bhartiben Amratbhai Tandel
and Ors.

...Applicants

Versus

Univan Ship Management Limited
and Ors.

...Respondents

.....

Mr. D.S. Joshi for the Applicants.

Ms N. Suman I/b. M/s. Bhatt Saldhana for the Respondents

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 21st JUNE, 2019.

P.C.:-

By this application the Applicants have sought to withdraw an amount of Rs.5,70,720/- deposited before the Commissioner for Employees Compensation, Mumbai.

2. By the impugned judgment dated 26th July, 2018 the Commissioner of Employees Compensation, Mumbai had allowed the Application (ECA) 314/B-60 of 2015 filed by the Applicants herein under Section 22 r/w Section 4 of the Employee's Compensation Act, 1923 and has awarded compensation of Rs.21,26,800/- with interest at the rate of 12% p.a. from the date of accident till its realisation.

Aggrieved by the said judgment, the Respondent No.1 -Company has filed the First Appeal (Stamp) No.28889 OF 2018. During the pendency of the appeal, the Appellant has deposited an amount of Rs.5,70,720/-.

3. The learned counsel for the Respondents has opposed the withdrawal mainly on the ground that the Commissioner for Workmen's compensation has exceeded his pecuniary jurisdiction in awarding Rs.21,26,800/-. She further submits that the deceased died by a heart attack and that the death was not in the course of employment with the opponent.

4. Suffice it to say that the contentions raised by the learned counsel for the Respondents will have to be decided on merits and the withdrawal of the amount will be subject to final outcome of the Appeal. Considering the fact that the Applicant No.1 is a widow and Applicant Nos.2 to 4 are children of the deceased, they are permitted to withdraw amount of Rs.5,70,720/- subject to giving an undertaking before the Commissioner for Workmen's Compensation, 11th Labour Court, Mumbai that they will refund the said amount with interest in the event the Appellants succeed.

5. The Civil Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)