

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

912 CIVIL APPLICATION NO.13496 OF 2018
IN FA/2929/2018

SABERA BEGUM SHAKIL SHAIKH @ SABERA FATEMA SK. SHAKEEL AND
ORS
VERSUS
THE NEW INDIA ASSURANCE CO. LTD., THR ITS BRANCH MANAGER,
AURANGABAD AND ANR

Mr.P.C. Mayure, Advocate for the applicants/claimants.
Mr.M.R.Deshmukh, Advocate for appellant/insurance company

CORAM : V.L.ACHLIYA,J.
DATED : 08.12.2020

P.C. :-

01. The applicants-claimants have moved this application for withdrawal of amount.

02. Learned Counsel for appellant-insurance company has opposed the application with contention that the appellants have good case to succeed in appeal. It is submitted that the death of deceased husband of applicant No.1 not caused due to accidental injury, but he was murdered, while working as a driver on vehicle owned by the insured and given on hire and thereafter the claim of the applicants seeking compensation not covered under the provisions of the Workmen's Compensation Act.

03. On the other hand, learned counsel for the

applicants-claimants submits that the judgment and order passed by the Workmen's Commissioner is reasoned, supported with precedents of law laid down on this issue. In this context, learned counsel invited attention to reasons recorded by the Trial Court to negate the objections raised by the appellant-insurance company as to maintainability of the application under the provisions of the Workmen's Compensation Act.

04. On due consideration of the submissions advanced and in the light of challenge raised and further taken note that term of policy has also covered the risk of deceased as driver under personal accident cover to the extent of Rs.1 lakh, I am of the view that the applicants be permitted to withdraw an amount of Rs.1,00,000/- (Rupees One Lakh) on furnishing undertaking to effect that in the event the impugned order is set aside or modified, the applicants shall re-deposit the amount. Hence, the application is partly allowed and following order is passed :-

O R D E R

- i. The amount of Rs.1,00,000/- be paid to applicant No.1 out of the amount deposited by the appellant-insurance company with Trial

Court, on furnishing written undertaking to the effect that in the event the award is set aside or modified, the applicants shall re-deposit the amount within eight weeks from the date of passing of award.

5. The application is disposed of in above terms.

[V.L.ACHLIYA,J.]