

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CIVIL APPLICATION NO.13836 OF 2019
IN FA(STAMP) NO. 16377/2014

SUREKHA RAJENDRA KOLI AND OTHERS
VERSUS
THE NATIONAL INSURANCE COMPANY LTD.
AURANGABAD AND ANR

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Mr.M.M. Bhokarikar, Advocate for applicants
Mr.S.P. Chapalgaonkar, Advocate for
respondent no.1.

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CORAM: V.L. ACHLIYA,J.
DATE : 08.01.2020

ORAL ORDER:

The applicants-claimants moved this application seeking withdrawal of amount of Rs.6,09,316/- deposited by the appellant-insurance company in terms of interim order passed in the matter.

2. Heard learned counsel for the applicants-claimants and the learned counsel representing the appellant -insurance company. Perused the judgment and award passed by the Tribunal and further considered the challenge raised in the appeal.

3. In brief, it is the contention of learned counsel for the appellant-insurance

company that the appellant has good case to succeed in appeal. It is submitted that in terms of the policy, risk of the deceased is not covered. It is submitted that the deceased is claimed to be sitting over the head of tractor and he fell down and sustained the fatal injuries. It is submitted that though the claimants have taken defence that the deceased was employed as labour/Coolie, in terms of policy the risk of the labour/Coolie was not covered. No additional premium was paid to cover the risk of the labour/Coolie.

3. On the other hand, learned counsel for the applicants-claimants support the judgment and award passed by the Tribunal and submits that the Tribunal has considered the contentions of appellant-insurance company as to liability to pay the compensation in the light of overall facts of the case and challenge raised.

4. On due consideration of submissions advanced, I am of the view that the following order would meet the ends of justice :-

ORDER

(i) The applicants are permitted to withdraw the amount to the extent of Rs.1,50,000/-.

(ii) Out of amount of Rs.6,09,960/- deposited by the appellant, the amount of Rs.1,00,000/- be paid to applicant no.1 and amount of Rs.50,000/- be paid to applicant no.4, on furnishing undertaking to the effect that in the event the award is set aside or modified, the applicants shall re-deposit the amount within four weeks from the date of order.

(iii) After making the payment to the extent of Rs.1,50,000/-, the balance amount be invested in fixed deposit with any Nationalized Bank initially for a period of two years with standing instructions to renew the same till further orders from the Court.

(iv) The interest accrued over the amount invested be directly credited in the Saving Account of applicant no.1 after every three months for the purpose of maintenance of applicant nos.2 and 3 minor children.

(v) The order of withdrawal of amount and payment of interest shall be subject to

final outcome of appeal.

(vi) The Civil Application is disposed of in
above terms.

[V.L. ACHLIYA]
JUDGE

SGA