

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.5 OF 2020
IN FA/16/2019

ANWARBEE ISMAIL KHAN PATHAN
VERSUS
TATA AIG GENERAL INSURANCE CO. LTD., THR ITS LEGAL MANAGER,
PUNE AND ANR

...
Advocate for Applicants : Mr. Hamzakhan I. Pathan
Adv. for Respondents: Mr. S.S. Patil

CORAM : K.K. SONAWANE, J.

DATE : 11th FEBRUARY, 2020.

PER COURT:

Heard the learned counsel for the applicant and learned counsel for respondent Insurance Company. No one else appeared for the respondent No.2.

The present application is filed seeking permission to withdraw the compensation amount deposited in this court on behalf of appellant Insurance company. It has been contended that the applicants initiated the proceeding bearing ECFA No. 6 of 2017 for compensation under the Employees Compensation Act, for the death of deceased Gous Khan Ismail Khan Pathan, who was employed as a cleaner on the vehicle tempo belonging to the respondent No.2. The learned Commissioner for Employees compensation, appreciated the factual aspects in the light of evidence adduced on record and partly allowed the application. The learned Commissioner directed the respondent Nos. 1 and 2 to pay the compensation of Rs. 8.90,840/- jointly and severally within stipulated period.

Being dis-satisfied with the impugned order, the appellant/Insurance Company rushed to this court and preferred the present appeal of F.A. No. 16 of 2019. The appellant-Insurance

Company also deposited the entire compensation as per the award before the learned Commissioner for resorting the remedy to file appeal against the impugned judgment and award passed by the learned Commissioner. Admittedly, the deceased Gous Khan Ismail Khan Pathan, succumbed to the vehicular accident. The applicant is the widow of deceased Gous. In view of circumstances that the alleged offending vehicle involved in the accident was insured with the appellant Insurance company, there is no impediment to allow the applicants to withdraw some part of the compensation, in the interest of justice. Definitely, it would sub-serve the purpose.

Accordingly, the application stands partly allowed. The applicant is permitted to withdraw 50% of the compensation amount deposited by the Insurance Company before the learned Commissioner subject to condition that the applicant shall furnish an undertaking to the satisfaction of the appropriate authority in the office of learned Commissioner/Labour Court, Nanded to the effect that in case adverse situation arises after adjudication of the appeal on merit, in favour of appellant insurance company, the applicant will refund the amount so withdrawn forthwith as per the directions of this Court. Rest of the 50% amount deposited on behalf of insurance company be invested in any nationalized bank for a period of two years or till adjudication of appeal on merit. The concerned authority in the office of learned Commissioner/Labour Court, Nanded to do the needful for disbursement of amount as directed above. Application for withdrawal of amount stands disposed of accordingly.

**[K.K. SONAWANE]
JUDGE.**

Grt/-.