

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

**INTERIM APPLICATION (ST) NO.2365 OF 2020
IN
FIRST APPEAL (ST) NO.27238 OF 2019**

Tilakdhari Khaderu Yadav ..Applicant

IN THE MATTER OF

Reliance Gen. Ins. Co. Ltd. ..Applicant

V/s.

Tilakdhari Khaderu Yadav ..Respondent

Mr.T.J. Mendon for the Applicant/Original Respondent.

CORAM : C.V. BHADANG, J.

DATE : 02nd DECEMBER 2020

P.C.

1. This is an application for withdrawal of the amount of compensation, deposited by the respondent No.1 (original appellant).

2. The deceased was an unmarried son of the applicants. He died in a motor-vehicle accident which according to the applicant arose out of and in the course of his employment with the second respondent.

3. The Commissioner for Workmen's Compensation Bandra, Mumbai by the impugned award dated 18th July 2019 in Application (CA No.158/B-37/2016) has granted compensation of Rs.8,68,640/- along with interest at the rate of 12 percent per annum, from 13th November 2015 till realization.

4. The learned counsel for the applicant points out that in pursuance of the impugned award the respondent No.1 (Original appellant) has deposited an amount of Rs.11,94,752/- before Commissioner for Workmen's Compensation Bandra.

5. In this case on 28th September 2020 time was granted at the request of the respondent No.1 to file a reply. Till today the reply is not filed. Today none appears for the respondent No.1.

6. The learned counsel for the applicant points out that although on the previous date it was contended on behalf of the respondent No.1 that the accident did not arise out of and in the course of the employment of the deceased with the respondent No.2, no such ground is raised either by the owner (Respondent No.2) or the respondent No.1.

7. Be that as it may, considering the overall circumstances, and the fact that the applicants who are the parents of the deceased who met with an unfortunate death in the accident, in the year 2015, some partial withdrawal can be allowed subject to condition.

8. In the result, the following order is passed.

ORDER

- (i) the application is partly allowed.
- (ii) The applicants shall be entitled to withdraw an amount of Rs.5 lakhs from out of the amount deposited before the Commissioner for Workmen's Compensation Bandra at Mumbai on proper identification.
- (iii) This shall be subject to usual undertaking being furnished to bring back the amount along with reasonable interest, if so ordered, by this Court.
- (iv) The balance amount shall continue to stay invested in a Fixed Deposit with a Nationalized Bank.

C.V. BHADANG, J.