

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.6727 OF 2021 IN
FIRST APPEAL NO.263 OF 2021**

Gulab s/o Shivram Gangurde & ors. ... **APPLICANTS**

VERSUS

The Oriental Insurance Co. Ltd. & anr. ... **RESPONDENTS**

.....
Mr. P.C. Mayure, Advocate for applicants
Mr. V.N. Upadhye, Advocate for respondent No.1.
.....

CORAM : R. G. AVACHAT, J.

DATE : 26th JULY, 2021

ORDER :

This is an application for withdrawal of the amount of compensation granted under the Employees' Compensation Act (Act for short).

2. Heard. Perused the impugned award.

3. Learned counsel for the appellant Insurance Company would submit that, no employer-employee relationship has been established. There is no any causal connection between cause of death and the nature of employment of the deceased. The documents on record

vouch for the cause of death to be heart attack. The term 'injury' defined under Section 3(1) of the Act has not been correctly interpreted. In short, according to learned counsel, the appellant Insurance Company has a very good case in appeal. He, therefore, urged for rejection of the application.

4. Learned counsel for the applicants/ legal representatives of the deceased would, on the other hand, submit that the Court below has, on appreciating the evidence in the case, granted the compensation. He took me through paragraphs No.21 to 24 of the impugned judgment, and ultimately urged for grant of the application.

5. It is a case that, the deceased was serving as a Cleaner on the truck belonging to the respondent No.2 herein (employer). On the fateful day, the deceased was proceeding in the truck carrying wheat sacks. A few motorcycle-borne persons chased the truck from behind, with a view to commit robbery. The truck driver, therefore, halted the truck. The deceased and the truck driver took to their heels so as to save themselves from the alleged robbers. Due to a fast run undertaken by the deceased, he suffered heart attack and died in the nearby field. All these facts have not been disputed by the employer.

6. True, it may prima facie sound to have no causal connection between the cause of death and the nature of employment. The case, however, appears to have been cleverly made out. I have perused the judgment of the Apex Court in case of Jyothi Ademma Vs. Plant Engineer, Nellor, 2006 CJ (SC) 427. True, if the workman dies a natural result of disease, he dies of that disease as a result of wear and tear, no liability will be fixed upon the employer.

7. The facts of the case in hand, however, indicate that, the deceased was on duty. Some persons allegedly chased the truck with a view to rob them. So as to save themselves, the deceased and the truck driver started running. Due to the stress, the deceased suffered heart attack and died. As such, there is causal connection between the cause of death and the nature of employment. It, therefore, cannot be said that the deceased did not die as a result of injury suffered in the accident arising out of and in the course of his employment. The claimants are six in number, parents, widow and the minor children. It is, therefore, desirable to permit the applicants to withdraw 60% of the amount deposited pursuant to the impugned award.

8. The application is, therefore, allowed. The

applicants are permitted to withdraw 60% of the amount deposited on furnishing usual undertaking. The amount payable to the minor applicants be kept in a fixed deposit in any of the Nationalised Bank till they attain majority.

**(R. G. AVACHAT)
JUDGE**

fmp/-