

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

**INTERIM APPLICATION NO.2234 OF 2021
IN
FIRST APPEAL NO.473 OF 2020**

Sadashiv Shantaram Parkar & Ors. ..Applicants

Vs.

The New India Assurance Co. Ltd. & Ors. ..Respondents

Mr.Devendra S. Joshi for the Applicants.

Mr.T.J. Mendon for the Respondent-Insurance Company.

CORAM : C.V. BHADANG, J.

DATE : 8 SEPTEMBER 2021

P.C.

. This is an application for withdrawal of the compensation deposited by the insurance company. The applicants are the legal heirs of Devidas Sadashiv Parkar who died in a vehicular accident. The deceased was working as a cleaner with the respondent No.2. The applicants filed WCA No.4 of 2008 before the Commissioner for Workmen's Compensation at Oras, District Sindhudurg. The Commissioner by the impugned award dated 31 July 2010 has granted compensation of Rs.3,41,712/- along with interest at the rate of 10% per annum from the date of the petition till realization.

2. I have heard the learned counsel for the applicants and the respondent-insurance company.

3. The learned counsel for the respondent-insurance company points out that there is no acceptable evidence to show that the deceased was employed as a cleaner with respondent No.2. It is submitted that in the absence of the relationship of employer and employee the claim under the Employee's Compensation Act, could not have been granted.

4. The learned counsel for the applicants states that the appeal is available only on limited grounds. There is a finding of fact that the deceased was employed as a cleaner.

5. Considering the circumstances, in my view some partial withdrawal can be allowed at this stage. The applicants who are the legal heirs of the deceased who died in the year 2008 are without any compensation till today.

6. In such circumstances, the applicants are allowed to withdraw an amount of Rs.3 lakhs from out of the compensation deposited by the respondent-insurance company. The remaining amount shall continue to stay invested.

7. The interim application is disposed of.

C.V. BHADANG, J.