

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

8 CIVIL APPLICATION NO.14205 OF 2019
IN FAST/19774/2019

PREMLATA @ PREMKALA NAMDEO SARGE AND ORS
VERSUS
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD., THR ITS BRANCH
MANAGER AND ORS

Mr F.K. Fayaz, Advocate for applicants
Mr S.S. Dargad, Advocate h/f Mr S.G. Chapalgaonkar, Advocate for respondent
no.1

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 25th April, 2022

PER COURT :

1. It is pointed out by Mr F.K. Fayaz, learned Advocate for applicants that name of respondent no.1 stated in the application is the same as reflected in First Appeal on stamp number and objection may be waived. Perused the Civil Application and Appeal on stamp number and found that the name of respondent No.1 shown in Civil Application is the same as shown in First Appeal. As such, office objection does not survive. The application to proceed further.

2. It is an application for withdrawal of amount moved by the applicants/original claimants.

3. Heard Mr F.K. Fayaz, learned Advocate for applicants/claimants and Mr S.S. Dargad holding for Mr S.G. Chapalgaonkar, learned Advocate for respondent No.1/Insurance Company.

4. Mr F.K. Fayaz, learned Advocate for applicants/original claimants invited my attention to the impugned judgment and pointed out that the deceased was in the employment of respondent No.2 and he died during the course of

the employment of respondent No.2 because of severe heart attack. The learned Commissioner has considered all the facts and evidence on record and held that in view of terms of Insurance policy, the Insurance Company is liable to pay the compensation. The learned Advocate for the applicants/original claimants urged to allow the claimants to withdraw the amount of compensation.

5. Mr S.S. Dargad learned Advocate for respondent no.1 strongly opposed to allow this application. He is disputing that the death of employee has occurred during the course of employment. He submitted that it is a natural death due to heart attack. It has no nexus with the employment. The learned Commissioner and Judge, Labour Court, Latur has also awarded interest which is not covered by the Insurance policy.

6. I have considered the submissions of both the sides. Perused the impugned judgment passed by the Labour Court, Latur. On going through the same, it is revealed that after appreciating the rival pleadings and after going through the record, the learned Commissioner and Judge, Labour Court, Latur has observed that the deceased was in the employment of Latur Integrate Textiles Park Ltd. and accident occurred during the course of employment. Mr Dargad, learned Advocate for Insurance Company submitted that the concerned Doctor is not examined in order to prove the cause of death. That aspect would be taken into consideration at the time of final hearing. As on today, I cannot overlook the finding given by the Commissioner that the deceased died during the course of employment due to severe heart attack. Having considered the submissions of both the sides, I am convinced to allow the applicants/original claimants to withdraw 50% of the amount of compensation.

ORDER

- (i) The application is hereby allowed.
- (ii) The Commissioner for Employees' Compensation & Judge, Labour Court, Latur is directed to make payment of compensation of 50% to the applicants/original claimants with accrued interest thereon on furnishing usual undertaking.
- (iii) Civil Application is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)