

Sharayu Khot.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2761 OF 2020

IN

FIRST APPEAL NO. 1304 OF 2022

Shri. Uttam Dattatraya Sadamate & Ors. ...Applicants

In the matte between

Executive Engineer & Anr. ...Appellants

Versus

Shri. Uttam Dattatraya Sadamate & Ors. ...Respondents

Mr. Sandeep Shripal Koregave for the Applicant/Respondent Nos. 1 to 5.

Mr. Jitendra M. Pathade for the Appellants.

CORAM : R.I. CHAGLA J

DATE : 29 November 2022

ORDER :

1. Heard learned Counsel for the parties.
2. By this Interim Application, the Applicants are seeking permission to withdraw the amount deposited with the

Commissioner for Employees Compensation, Sangli by Respondent Nos. 1 and 2 without furnishing any security.

3. The Applicants had informed this Court on 19th November 2019 that they had already deposited the entire decretal amount awarded by the Commissioner Employees' Compensation and Judge, Labour Court, Sangli. This is recorded in the said order dated 19th November 2019 and in view thereof, *ad-interim* order in terms of prayer clauses (b) and (c) was granted, thereby staying the effect, execution, implementation of the impugned award dated 3rd July 2019.

4. The Applicants have stated that the victim namely, Nilesh Uttam Sadamate, was related by the Applicants being the son of Applicant Nos. 1 and 2, father of Applicant No. 3 and brother of the Applicant No. 4. Respondent No. 7 is the wife of Nilesh Uttam Sadamate. The deceased Nilesh Uttam Sadamate expired on 21st June 2015. Cause of death is stated to be septicemic shock due to 60% electric burn during painting of compound wall at Jaysingpur Electrical Substation.

5. The deceased was earning Rs. 400/- per day wages. The Court below has taken into account that the Applicants spent 1,70,000/- for medical treatment in Wanless Hospital, Miraj. The Application was allowed by the Commissioner for Employees Compensation, Sangli vide impugned judgment and order dated 3rd July 2019 by which compensation and penalty was awarded to the Applicants.

6. The Applicants state that they have a strong case on merits. The Applicants have incurred a lot of expenses for medical treatment. The Applicant No. 1 is a senior citizen of 69 years of age who is dependent on the deceased. The Applicant No. 2 is also the senior citizen who is also dependant on the deceased. The Applicant No. 3 is the deceased's son who is studying in school in the 5th standard, when the Interim Application has been filed. The Applicant No. 4 is the brother of the deceased and also in need of the financial assistance for medical treatment, school expenses. The Applicants have stated that they are entitled to receive the amount in law.

7. The Applicants have further stated that the Respondent No. 7 is the wife of the deceased is staying at her parental home.

There are some disputes between the Respondent No. 7 and the Applicants, which have been mentioned in paragraph 7 of the Interim Application. The present Interim Application which has been filed by the Applicants for joining Opponent No. 4 as Respondent No. 7.

8. The Applicants have tendered the Affidavit in Reply to the Interim Application dated 7th October 2022, wherein they have raised contentions on merits including that the induction zone in which the deceased suffered the burn injuries and ultimately, expired was protected. The Applicants have also raised the issue of the disputes between the Applicants and Respondent No. 7 in connection to their entitlement. It is further stated that in the event, this Court allows the Application for withdrawal, an Indemnity Bond be filed, to fact that in the event, the Appellant succeeds in the First Appeal, the Applicants shall refund the amount, allowed to be withdrawn.

9. I have considered the averments as well as taken note of the fact that the Applicants are related to the deceased as aforementioned and the Applicant Nos. 1 and 2 being senior citizens were dependent on the deceased, as well as the Applicant No. 3 being the son of deceased who is studying in school and the

Applicant No. 4 being the sister of the deceased was also dependent on the deceased. Further, the Applicants have incurred a lot of expenses for medical treatment for the deceased prior to his having succumbed for septicemic burn injuries suffered.

10. In view thereof, the Applicants are required to be granted the relief sought by permitting them to withdraw 40% of the amount deposited by the Appellants with the Commissioner Employees Compensation, Sangli. This is after taking into consideration the disputes between Respondent No. 7 who is the Opponent party No. 4 in the proceedings before Commissioner Employees Compensation, Sangli and the Applicants. The Applicants are also required to furnish undertakings to secure the Appellants. Hence, the following order is passed. :-

- (i) The Applicants are permitted to withdraw 40% of the amount deposited by the Appellants with the Commissioner Employees Compensation, Sangli upon furnishing an undertaking against the disbursement of the amount to the effect that the Applicants shall return the amount with interest at such rate as

determined by this Court in the event, the Appellants succeed in the Appeal.

(ii) The balance 60% shall be invested by the Commissioner Employees Compensation, Sangli in fixed deposit with nationalised bank.

(iii) Interim Application is disposed of accordingly.

[R.I. CHAGLA J.]