

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

**CIVIL APPLICATION NO.5656 OF 2023  
IN  
FIRST APPEAL (ST) NO. 29955 OF 2018**

**SHIVANANDA BALIRAM ALTE AND ORS  
VERSUS  
THE NATIONAL INSURANCE CO. LTD., THR ITS AUTHORIZED  
SIGNATORY, AURANGABAD AND ANR**

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Advocate for Applicants : Mr. Aghav Avinash D  
Advocate for Respondent No.1: Mr. M. M. Ambhore  
Advocate for Respondent No.2: Mr. S. D. Kaldate

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**CORAM : S. G. CHAPALGAONKAR, J.**

**DATE : 22.06.2023**

**PER COURT :**

1. The applicants – original claimants in (WMC) Petition No.2/2015 are seeking withdrawal of amount deposited by the appellant – insurance company with the Commissioner.
2. The learned Advocate appearing for the applicants would submit that, deceased was employed on vehicle owned by original respondent no.1 and insured with original respondent no.2. He would submit that, respondent no.1 has admitted the employer employee relationship before the Court.
3. Per contra, Mr. Ambhore, learned advocate appearing for respondent no.1 – insurance company would submit that, respondent

no.1 has made a statement in the written statement, thereby denying the employer employee relationship. He would also submit that since during deposition, respondent no.1 has given inconsistent statement, there is no evidence as regards to employer employee relationship. He submits that, the substantial question of law is involved in the appeal.

4. Having considered the submissions advanced, it can be gathered that, the Commissioner on consideration of the defence raised on behalf of insurance company, recorded findings in favour of the original claimants. Although the award is subjudice in pending appeal, it would be appropriate in the interest of justice to permit the applicants to withdraw 50% of the amount along with accrued interest, subject to condition that they furnish usual undertaking before the Commissioner that in case they suffer any adverse order in appeal, they shall refund the entire amount in terms of final order that would be passed.

5. The balance amount shall be kept in fixed deposit in any Nationalized Bank initially for the period of two years and shall be further renewed till disposal of the appeal.

6. Civil Application is allowed in the above terms and the same is disposed of.

**(S. G. CHAPALGAONKAR, J.)**