

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

931 CIVIL APPLICATION NO.6290 OF 2023

CHHAYA MADHUKAR KOLTE AND ANOTHER
VERSUS
NAVAL KISHOR MITTAL AND ANOTHER

....

Advocate for the Applicants : Mr. A. S. Gandhi
Advocate for the Respondent No.1 :Mr. M. N. Deshmukh

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**CORAM : SANDIPKUMAR C. MORE, J.
DATED : 28/06/2023.**

P. C. :

1. Heard rival submissions.
2. The applicant- Chhaya is seeking withdrawal of the entire amount of compensation, which has been deposited by the appellant – owner as directed by this court in the concerned MACT, Jalgaon now at Bhusawal alongwith the interest accrued thereon.
3. The learned counsel for the appellant – owner strongly opposed the application by filing an affidavit in reply and on the ground that the applicant Chhaya committed perjury and the charge sheet in respect of the accident was filed after 14 years and the order of allowing the charge sheet to be filed, passed by the concerned Magistrate, is also quashed by the Division Bench of this Court and that the appeal is yet to be admitted.
4. However, it appears that the appellant as well as driver of offending vehicle had filed written statement in the original claim petition but failed to lead any evidence. The FIR and spot panchanama on record indicate the presence of offending vehicle on the spot. The non-filing of charge sheet against the driver of

offending vehicle, will not come in the way since filing claim petition for compensation, is the beneficial legislation and the finding of criminal court, is not having any bearing on such petition. Further, the objection on the ground that the applicant had committed perjury relates to her personal cause and for that purpose the withdrawal of compensation granted in respect of death of her son cannot be denied. Further, only 50% amount of compensation is directed to be deposited. Admittedly, the other claimant father of deceased, Madhukar Pandurang Kolte is no more. In view of the same, the present applicant Chhaya Madhukar Kolte is permitted to withdraw the compensation amount as deposited by the appellant / respondent Naval Kishor Mittal from the concerned MACT alongwith the interest accrued thereon till date on usual undertaking to the satisfaction of the said MACT.

5. The civil application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)