

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

**CIVIL APPLICATION NO.8244 OF 2023
IN FIRST APPEAL (ST) NO.33584/2022**

**ASHWINI W/O RAMESHWAR MANDADE AND ORS
VERSUS
NATIONAL INSURANCE COMPANY CO. AND ORS**

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Advocate for Applicants : Mr. Shinde Ram S.
Advocate for Respondent No.1: Mr. M. S. Kulkarni h/f Mr. A. B.
Kadethankar

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 19.08.2023

PER COURT :

1. Heard the learned Advocates appearing for the respective parties.
2. Mr. Shinde, learned Advocate appearing for the applicants submits that the Tribunal has passed the award after considering the evidence recorded by the claimants. The deceased was serving as a Police Constable. His salary is proved on record of the Tribunal. There is no dispute as regards to the accidental death of the deceased. The appeal is filed only on the ground of quantum. Therefore, he seeks permission to withdraw the entire amount as deposited by the appellant - insurance company.
3. Mr. Kulkarni, learned Advocate h/f Mr. Kadethankar for respondent no.1 opposes the prayers contending that there are substantial grounds in appeal. The Tribunal has erroneously

considered the salary based on 7th pay commission. Similarly, statutory deductions by way of taxes are not considered.

4. Having considered the submissions advanced, apparently, the dispute is regarding quantum of compensation. Even after taking into account the grounds in the appeal as it is, the claimants are entitled to withdraw the partial amount deposited by the appellant / insurance company. Since applicant nos.2 and 3 are minor, the amount falling to their share needs to be kept in fixed deposit with liberty to seek withdrawal as per exigencies. In that view of the matter, this Court proceeds to pass the following order:

ORDER

- a. Civil Application is partly allowed.
- b. The amount falling to the share of applicant nos.1 and 4 to the extent of 70% is permitted to withdraw along with accrued interest thereon till this date, subject to usual undertaking to be furnished to the satisfaction of the Registrar [Judicial] of this Court.
- c. The amount falling to the share of applicant nos.2 and 3 be invested in fixed deposit in their names.
- d. The balance of the amount falling to the share of applicant nos.1 to 4 shall also be invested separately with any Nationalized Bank in fixed deposit with renewal clause.

[S. G. CHAPALGAONKAR]
JUDGE