

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

987 CIVIL APPLICATION NO.11775 OF 2023
IN FAST/5219/2023 WITH CA/2031/2023 IN FAST/5219/2023 WITH
CA/2032/2023 IN FAST/5219/2023

SHOBHA GOVIND PHAD
VERSUS
THE NEW INDIA INSURANCE CORRECTED ASSURANCE CO LTD AND ANR

...
Advocate for Applicant : Mr. G.N. Kulkarni (Mardikar)
Advocate for Respondent 1 : Mr. A.S. Usmanpurkar
...

CORAM : ARUN R. PEDNEKER, J.
DATED : 19/10/2023

PER COURT :

1. Heard the learned counsel for the parties.
2. Present appeal is filed by the Insurance Company on the ground that the deceased was suffering from ailment before going to his job. The learned counsel has taken me through para No. 12 of the judgment of the Labour Court. Perusal of the judgment shows that although the deceased has communicated to the employer that he is not feeling well, but the employer had insisted him to join the job. Therefore, the deceased made himself available on duty. When the deceased was on duty, he suffered severe attack and died. The deceased was working as a driver with the employer.
3. In view of the above, I deem it appropriate to permit the applicant No. 1 to withdraw 50% of the amount deposited in the Labour Court along with the proportionate interest accrued thereon till date on furnishing usual undertaking to the satisfaction of the Presiding Officer of the Labour Court.
4. Civil application for withdrawal of amount is disposed of accordingly.
5. For the reasons stated in the application filed for condonation of

delay, the delay of 100 days caused in filing the appeal is condoned. The application is allowed.

6. Since appellant Insurance Company has deposited the amount of compensation as directed by this Court, the ad-interim stay granted earlier is confirmed. Stay application is disposed of.

7. Appeal is **admitted**.

8. On admission, Mr. G.N. Kulkarni, learned counsel waives service of notice on behalf of original claimants.

9. Call R. & P.

[ARUN R. PEDNEKER J.]

ssc/