

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CIVIL APPLICATION (CAF) NO. 553 OF 2023
IN
FIRST APPEAL NO. 954 OF 2022

IFFCO Tokio General Insurance Co. Ltd., Nagpur
..VS..
Smt. Shashikala Kacharu Waghade and others

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.M. Kukday, Advocate for appellant.
Mr. Samir Das, Advocate for respondent Nos.1 and 2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : FEBRUARY 27, 2023

This is an application filed by respondent Nos.1 and 2 for withdrawal of decretal amount. As per contentions of the respondent Nos.1 and 2, the appellant – Insurance Company has deposited entire decretal amount before the Commissioner under the Employee's Compensation Act, 1912 at Labour Court, Yavatmal. Stay is already granted by this Court to execute the decree. Respondent No.1 is mother of deceased who died in an accident during the course of employment. The respondent No.1 is no source of income as the sole earner of the family is no more and therefore, respondents are facing financial crises.

2. The said application is opposed by the appellant.

3. Perused the application and the objection raised by the appellant.

4. In view of the reasons mentioned in the application, the respondent Nos.1 and 2 are permitted to withdraw the amount. The amount be disbursed on due identification and verification.

The Civil Application No. 553 of 2023 is disposed of.

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Admit.

2. Call for Record and Proceedings.
3. Following substantial questions of law is framed for disposal of appeal :-
 - (i) Whether the Commissioner under the Employee's Compensation Act, 1912 justified in fixing the liability of the Insurance Company to pay the compensation though the risk of deceased was not covered under the insurance policy.
 - (ii) Whether the Judgment and Award passed by the Commissioner under the Employee's Compensation Act, 1912 is justified one.

The appellant to file paper book within a period of eight weeks after receipt of Record and Proceedings.

(URMILA JOSHI-PHALKE, J.)

Kirtak