

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

909 CIVIL APPLICATION NO. 3378 OF 2024
IN FA/4299/2023
WITH
CIVIL APPLICATION NO. 14111 OF 2023
IN FA/4299/2023

ARTIBAI ARJUN RATHOD AND ORS
VERSUS
VITTHAL KALU AHIRRAO AND ANR

...
Advocate for Applicant : Mr. Manoj Shinde h/f Mr.
Chapalgaonkar Shailesh S
Advocate for Respondent No. 1 : Mr. A.d. Sonar
Advocate for Respondent No.2 : Mr. M.R. Deshmukh
...

CORAM : KISHORE C. SANT, J.

DATE : 24.10.2024.

PER COURT :

WITHDRAWAL

1. Heard the parties for some time.
2. This application is filed for withdrawal of the amount of compensation deposited by the Insurance Company in the office of this Court.
3. This application is vehemently opposed by the

learned Advocate for the insurance company. He submits that the deceased, though, was travelling in the vehicle with goods, he was not the employee of the owner of the vehicle. The truck was hired by the owner of the cotton which was transported. The transporter had hired the deceased and thus he was the employee of the hirer of the truck. There is no other vehicle involved. It is their case that the truck was carrying cotton turned turtle. He thus submits that no liability will be on the insurance Company in such circumstances.

4. The attention of this Court was invited to paragraph No. 17 of the judgment where the court has shown bifurcation of the premium towards the limited liability is charged and as that is taken by the insurance company.

5. Learned Advocate for the applicants therefore, submits that in any case the applicants would be entitled to receive 3,00,000/- towards the compensation. Considering the above, following order :

ORDER

(i) The Civil Application partly allowed and

disposed off.

(ii) The applicant No.1 is allowed to withdraw compensation amount, who is mother of applicant Nos. 2 & 3 who are minor of Rs. 3,00,000/- alongwith accrued interest on furnishing usual undertaking that in case the appeal is allowed she would re-deposit the said amount in this Court within 12 weeks from the said judgment.

STAY

1. Since the entire amount is already deposited in the office of this Court, there shall be stay to the impugned judgment and award till final disposal of the appeal.

FIRST APPEAL

1. Heard.
2. Call R & P.

**(KISHORE C. SANT)
JUDGE**

mahajansb/