

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION 17893 OF 2023
IN
FIRST APPEAL STAMP NO.18033 OF 2023

Smt. Takrimunnisa Jamal Ahmad
Choudhari & Ors.

..Applicants

Versus

Tata AIG General Insurance Co. Ltd. & Anr.

..Respondents

Ms. Rina Kunde, for the Applicants.

Mr. D. S. Joshi, for the Respondents.

CORAM : KISHORE C. SANT, J.

DATE : 17th JANUARY, 2024

PC.

1. Heard the parties.

2. This Application is by original claimants who had filed application under Workmen's Compensation Act. The Applicant No.1 is wife of deceased who died in accident. Applicant Nos.2 and 3 are his sons. Applicant No.4 is father of the deceased. The Respondent/Appellant has deposited amount of Rs.16,06,494/- with the Commissioner under Employees Compensation Act at Thane and the same is deposited in the fixed deposit in the name of Registrar. Since the earning member of the family is no more, it is prayed that the said amount be allowed to be withdrawn.

3. Learned advocate for the Respondents vehemently opposed the Application and submit that important ground is taken as to whether the deceased can be said to be on duty when the accident took place and

he also submits that in fact he has raised the ground even of the relationship between the parties as employer and employee. Considering the fact that the earning member of the family is lost, this Court finds that the Application needs to be allowed.

4. The Application as such stands allowed. Applicants are entitled to withdraw 50% of the amount deposited with the learned Commissioner on giving personal undertaking that in case Appeal is allowed, they will redeposit the amount within six months. Undertaking on behalf of Respondent Nos.2 and 3, who are minors, shall be given by Applicant No.1. It is clarified that the amount of the share of Applicant Nos.2 and 3 (minors) be deposited in a fixed deposit and the interest on the said amount be credited every quarter in the joint account of Applicant No.1 and the concerned minor.

5. Remaining amount of 50% be deposited in fixed deposit to be renewed from time to time till disposal of the Appeal.

6. Parties are at liberty to move this Court for early hearing.

7. Since the matter arises out of employees compensation, paper-book is dispensed with.

8. Respondents are at liberty to file compilation of relevant papers.

9. The Application stands disposed of.

[KISHORE C. SANT, J.]