



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

51 CIVIL APPLICATION NO. 2669 OF 2025
IN FA/505/2025

Govind Ranu Sarode And Another.
VERSUS
Iffco Tokio General Insurance Co And Others.

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Advocate for Applicant : Mr. Sushant Choudhari
Advocate for Respondent 1 : Mr. Swapnil S. Rathi
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CORAM : S. G. CHAPALGAONKAR, J.
Dated : March 21, 2025

ORDER :-

CA for withdrawal of amount :-

1. Heard learned advocates appearing for respective parties.
2. The applicants are seeking permission to withdraw amount deposited by the Appellant-Insurer in pursuance to the award passed by the Commissioner of Employees Compensation/Civil Judge, S.D., Beed in W.C.A. No.30 of 2019.
3. The applicants are dependents of deceased Babu Sarode, who died in accident dated 5.7.2019. They instituted proceedings under Employees Compensation Act, claiming compensation from the employer as well as the insurer, who insured risk under Employees Compensation Act in relation to the factory as well as contractor. The employer raised defence that there is no nexus between accidental death of deceased

and his employment. Even, employer-employee relationship was denied by filing written statement. Commissioner, after evaluation of the evidence, concluded that death of deceased was during the course and arising out of the employment with respondent no.2 and risk of such employee would cover under Insurance Policy issued by the respondent no.3-Insurer.

4. The insurer filed present appeal carrying forward its defence that accident not only occurred beyond duty hours but at the place which is remote to the place of employment. Mr. Rathi, points out that there is no nexus between accident and employment. It was purely a case of motor vehicular accident, but compensation is sought to be recovered bringing it within the purview of employees compensation Act.

5. Having considered the submissions advanced and reasons as adopted by the Commissioner, the contentious issue requires adjudication on merit. However, since the Commissioner has recorded finding in favour of the claimants, who lost their 23 years old son, they are certainly entitled for partial withdrawal of the amount, subject to certain conditions. Hence, the following order :-

Order

- i. Application is partly allowed.
- ii. The applicants are permitted to withdraw 50% of the amount as deposited by the appellant-insurer on condition that the applicants file undertaking to the Commissioner for Employees Compensation, at

Beed that they shall re-deposit the amount, in case adverse order is passed.

- iii. Copy of such undertaking be placed on record of the appeal.
- iv. CA stands **disposed of**.

First Appeal :-

- 1. Heard learned advocates appearing for the parties.
- 2. Present appeal is filed under the provisions of employees Compensation Act. The appellant/insurer proposed following substantial questions of law :-

“I. Whether the death of deceased can be attributed to the employment or whether there is nexus between accidental death and employment of deceased so as to bring home liability of the insurer under terms and conditions of the insurance contract.

- ii. Whether the applicants have established employer-employee relationship between the deceased and respondent no.2 on the basis of alleged agreement between contractor and insured.

- 3. In view of the aforesaid substantial questions of law, **Admit**. Learned advocates appearing for respondent waives notice.

(S. G. CHAPALGAONKAR, J.)

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