



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

55 CIVIL APPLICATION NO. 2568 OF 2025
IN FA/610/2025

Kalyan Bhagwat Waghmare and another
VERSUS
The Assistant Engineer Maharashtra State Electricity
Distribution Co Ltd

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Advocate for Applicant : Ms. Lomte Ashwini Annasaheb
Advocate for Respondent 1 : Mr. Avishkar S. Shelke

CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 25, 2025

PER COURT :-

1. Heard learned advocates appearing for the respective parties.
2. The applicants are seeking permission to withdraw the amount deposited by the respondent MSEDCL in pursuance to the Award passed by the Commissioner for Employees Compensation & Civil Judge S.D. in W.C.F.A No.1 of 2021.
3. Considering the rival submissions and reasons as adopted by the Commissioner, it cannot be disputed that son of the claimants lost his life while he was working as technician at 33/11 KV sub-station of MSEB at village Shiradhon. The dispute in appeal appears to be regarding interse liability of respondents and contractor, who was not added as party. Looking to the nature of the dispute at this stage, it would be appropriate to permit the applicants to withdraw 50% of amount as deposited with the Commissioner for Employees

Compensation, subject to furnishing of an undertaking that they shall re-deposit the amount, in case, adverse order is passed in the appeal. Civil application stands **disposed of** with the aforesaid directions.

First Appeal :-

4. Heard Mr. Shelke, learned advocate appearing for the appellant.

5. The Appellant disputes employer-employee relationship between deceased and appellant. It is contention of the appellant that deceased was not in direct employment of appellant. At the most, he was employee of the contractor i.e. M/s. Suyog Maji Shikau Umedver Seva Sahkari Sanstha Marayadit, Osmanabad, who undertook contract for supply of skilled outsourcing technicians. Claimants, without adding him as party, proceeded with the claim. In this background Mr. Shelke, learned counsel appearing for the appellant pressed into service following substantial questions of law.

- i. That, the present appellants are not employer within the meaning of Section 2 (e) of the Employee's Compensation Act, 1923. The claim petition under Section 4 is therefore, not maintainable as against the appellants.
- ii. That, as per Exhibit-2611 i.e. Work Contract Agreement entered between MSDECL and M/s. Suyog Maji Shikau Umedver Seva Sahkari Sanstha Marayadit, Osmanabad, Work Contract was given for providing skilled outsourcing technician on contract basis under Osmanabad and Tuljapur Division. At the time of the incident, the Work Order was given to M/s. Shri. Ajubai Electronic Seva Sahkari Sansstha

Marayadit, Osmanabad. As such, the said agency being immediate employer of the deceased was necessary party to the case.

- iii. Whether, the Employees Compensation Claim against principal is maintainable in the absence of impleading employer/contractor as necessary party to the claim petition, in the light of Section 12 of the Employee's Compensation Act, 1923.

6. In view of the aforesaid substantial questions of law, parties are put to the notice that the appeal itself would be heard finally at the stage of admission. Hence, issue notice for final disposal to the respondents returnable after four weeks. Learned counsel waives notice for respondent, on admission.

7. Call for record and proceeding.

(S. G. CHAPALGAONKAR, J.)

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