



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

942 CIVIL APPLICATION NO. 12106 OF 2024
IN FAST/27404/2024

NAZIYA SABER WADKAR AND ORS
VERSUS
JABBAR SHERKHA PATHAN AND OTHERS

...
Advocate for Applicants : Ms. Lomte Ashwini Annasaheb
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 24.01.2025

PER COURT :-

ORDER ON WITHDRAWAL APPLICATION :-

1. Heard learned Advocate for the applicants.
2. Applicants who are original Claimants in W.C.F.A. No. 8 of 2019 are seeking permission to withdraw amount deposited by appellant/respondent No. 2 insurance Company with Commissioner for Employees Compensation at Usmanabad, in pursuance to the award dated 14.03.2024.
3. Applicants had instituted claim seeking compensation towards accidental death of deceased Saber Altaf

Wadkar under the provisions of Employees Compensation Act.

4. The Commissioner, upon evaluation of the evidence accepted claim and passed award for Rs. 7,58,240/- in favour of Claimants, however, directed respondent No. 2 insurance Company to pay amount and recover the same from respondent No. 1.

5. Aggrieved, insurance Company filed present appeal, on the ground that once defence of Insurance Company is accepted on the point of driving license, the Commissioner ought to have exonerated insurance Company without passing any award in the nature of pay and recover.

6. Having considered submissions advanced and grounds raised in appeal, apparently it seems there is no dispute as to the accidental death of deceased Saber Wadkar. Dispute appears to be between Employer of the deceased and Insurer of the vehicle. In that view of the matter, applicants are certainly entitled to partial withdrawal of amount of compensation, as is deposited by Insurance Company with registry of this Court, on certain conditions that may also take care the interest of the appellant/insurer. Hence following

order :

ORDER

- (i) The Civil Application is partly allowed.
- (ii) Applicants/Original Claimants are permitted to withdraw 50% of amount of compensation deposited, alongwith accrued interest thereon, subject to condition that they shall furnish undertaking to the satisfaction of learned Commissioner for Employees Compensation, that they will re-deposit the amount withdrawn, alongwith interest @ 6% p.a. thereon, in case such directions are given at the time of final disposal of the appeal.
- (iii) Balance amount, if any, be kept in Fixed Deposit, in any Nationalized Bank, for period that would fetch maximum interest till final disposal of the appeal.
- (iv) The Civil Application stands disposed off.

(S. G. CHAPALGAONKAR)
JUDGE

mahajansb/