

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9189 OF 2025

M/s. Active Engineers, Chennai

.. Petitioner

Versus

Mohammad Hasrat Mohammad Bohare and Ors. .. Respondents

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- Mr. Iqbal Siddiqui a/w. Mr. Deepak Jamsandekar and Ms. Smita Sonawane, Advocates for Petitioner.
- Mr. Kuldip Singh, Advocate for Respondent Nos.1 and 2.
- Mr. Neel G. Helekar, Advocate i/by Mr. Rishi Ashok and P. Khosala for Respondent No.3.

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CORAM : MILIND N. JADHAV, J.

DATE : AUGUST 01, 2025

P.C.:

1. Heard Mr. Siddiqui, learned Advocate for Petitioner; Mr. Singh, learned Advocate for Respondent Nos.1 and 2 and Mr. Helekar, learned Advocate for Respondent No.3.

2. On 22.07.2025 after hearing learned Advocates appearing for respective parties, the following order was passed:-

“1. Heard Mr. Siddiqui, learned Advocate for Petitioner; Mr. Singh, learned Advocate for Respondent Nos.1 and 2 and Mr. Ashok, learned Advocate for Respondent No.3.

2. Mr. Ashok, learned Advocate has entered appearance today for Respondent No.3 – Union of India through the General Manager, Central Railway. He would submit that he was given instructions to appear only yesterday and received copy of brief.

3. Mr. Singh, learned Advocate appears on behalf of private Respondent Nos.1 and 2 who are legal heirs and parents of the deceased. This is a Petition filed under Article 227 read with Article 226 of the Constitution of India.

4. After hearing Mr. Siddiqui, learned Advocate for Petitioner

on previous date i.e. 08.07.2025, following order was passed:-

- “1. Heard Mr. Siddiqui, learned Advocate for Petitioner.*
- 2. Petitioner is aggrieved by the impugned order dated 20.02.2025 passed by the Commissioner for Employees’ Compensation, 10th Labour Court, Mumbai in respect of grant of compensation to the private Respondents before me. On Prima facie perusal of the said order it is seen that order has been passed ex-parte. However in paragraph No.5 of the said order it is stated that the Petitioner had remained absent though summons was served and therefore Application was proceeded ex-parte. No further details are stated with respect to service on the Petitioner.*
- 3. Another moot point advanced by the learned Advocate for the Petitioner is that Petitioner – company is known by the nomenclature M/s. Active Engineers Chennai however the cause title in the impugned order notes the name of the Petitioner – Company as M/s. Active Engineering Company, Labour Agency Bhusawal, Maharashtra. He would submit on instructions that Petitioner – Company was not even aware of the proceedings.*
- 4. Prima facie it appears that Petitioner was a contractor and private Respondents were his employees but the proceedings before the Labour Court, Mumbai were contested by the Union of India / Central Railway. This appears from the contentions of the Union of India / Central Railway noted in paragraph Nos.3 and 4 of the impugned order. However at several places in the impugned order it appears that name of the Petitioner – Company is incorrectly mentioned as M/s. Active Engineering Limited. Insofar as the address at Bhusawal is concerned I may not agree with the learned Advocate for the Petitioner because the Contractor though situated in Chennai was undertaking maintenance of the BCM & FRM machines deployed over Central Railways at Kharbao village, Taluka Bhiwandi, District Thane, Maharashtra. Prima facie the address of the Petitioner in the order as described being a Labour Agency at Bhusawal, Maharashtra appears to be incorrect on the face of record.*
- 5. Learned Advocate for Petitioner would persuade the Court to consider the impugned order foisting liability jointly and severally on Union of India / Central Railway and the petitioner. He would submit that he is aggrieved with the directions contained in operative clause 3 on the premise that payment of compensation is directed to be paid by the Petitioner jointly and severally with the Union of India / Central Railway by the Authority while passing the order dated 20.02.2025 without hearing the Petitioner.*
- 6. In view of the above submissions and after reading*

the impugned order dated 20.02.2025 an arguable case is made out by learned Advocate for Petitioner for issuance of notice and stay of the impugned order qua the Petitioner only. Hence, impugned order dated 20.02.2025 is stayed to that extent. No steps shall be taken against the Petitioner for recovery of any amount until the present petition is disposed. Regarding liability of Union of India / Central Railway, the impugned order is not stayed by this Court.

7. In view of the controversy which is involved and since it relates to compensation payable to the dependents of the deceased workman, the present Writ Petition shall be heard peremptorily by the Court on the next adjourned date which shall be noted by the Respondents. Hence issue notice to the Respondents made returnable after two weeks.

8. In addition to Court notice, Petitioner is permitted to serve a copy of the Writ Petition and this order on the Respondents and inform them about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. It is seen that the dependents of deceased workman are his father and mother who are Applicants before the Labour Court. They are residing in Jalgaon.

10. Respondent / dependents of deceased workman are directed to appear on VC only if so required considering the fact that they have lost their son in the fatal accident. They need not come all the way to Bombay to appear or appoint any lawyer for the present as this Court has taken cognizance of the above fact and shall consider appointing an Advocate through the legal aid to represent and espouse their cause if they so require after hearing the Union of India / Central Railway on the next adjourned date. Advocate for Petitioner shall inform the private Respondents about the passing of this order and give them the link for appearing on VC on the next adjourned date.

11. Stand over to 22nd July, 2025 (F.O.B. at 11:30 am)."

5. Today on behalf of Union of India – Central Railway Mr. Rishi Ashok has appeared before the Court. He is directed by Court to place submissions of Respondent No.3 on Affidavit within a period of one week from today. Subject to what Respondent No.3 has to state, this Court shall pass appropriate orders in the present Writ Petition on the next adjourned date which may be noted by the parties.

6. If Respondent No.3 resiles from filing any Affidavit-in-Reply, this Court shall not grant them any further extension and decide the present Writ Petition on its own merits in accordance with law.

7. In the meanwhile, ad-interim relief granted earlier, if any,

to continue.

8. *List the Writ Petition on 31st July, 2025. To be placed under the caption ‘First on Board’.”*

3. Today, when the matter is kept for further hearing and passing of order, Mr. Siddiqui in his usual fairness informs the Court that considering the relationship of Petitioner with the Respondent No.3 – Central Railway, the Petitioner had decided to provide appointment on compassionate grounds to one eligible family member of the deceased person and to that extent he would submit that it would go a long way in granting solace to the family of the deceased.

4. Mr. Helekar, learned Advocate for Respondent No.3 – Central Railway after taking instructions would submit that the compensation as determined by the Competent Authority shall be paid by the Central Railway in the first instance subject to its determination under the extant applicable law and it shall be immediately paid over to the legal heirs and dependents of the deceased within a period of one week from the date of its determination as per law by the Labour Court.

5. Mr. Singh, learned Advocate appearing for Respondent Nos.1 and 2 who are parents of the deceased person would submit that determination of compensation in such facts and circumstances has to be made as fast as possible on the part of the Competent Authority under the extant law as applicable and it should be done forthwith

otherwise it would amount to futility if there is delay. Mr. Singh is right in his contentions.

6. In view of submissions made by the learned Advocates at the bar and the orders dated on 08.07.2025 and 22.07.2025, present Petition is disposed of by passing the following directions:-

- (i) The impugned order dated 20.02.2025 passed by the commissioner under the Employees Compensation Act and Judge, Tenth Labour Court, Mumbai is quashed and set aside in view of the reasons given in order dated 08.07.2025;
- (ii) As a result, Application (ECA) No.167/B-48 of 2021 is allowed to be immediately modified to the extent of correcting the name and address of the Petitioner who is Respondent in the said Application before the Labour Court as per the cause title given in the present Petition;
- (iii) The learned Labour Court is directed by this Court to allow Mr. Singh, learned Advocate appearing for Applicants before the learned Labour Court to amend the title of Respondents and their address as per the cause title in the Petition within a period of one week from today positively;

(iv) Considering that substantial time has lapsed in view of passing of order dated 20.02.2025 as also the bereavement caused to private Respondents due to loss of their young son, learned Labour Court is directed by this Court to dispose of Application (ECA) No.167/B-48 of 2021 within a period of three weeks from today by adhering to the directions contained in this order and pass fresh order accordingly for payment of compensation forthwith by Central Railway to the legal heirs of the deceased.

7. It is directed that compensation which is due and payable to the legal heirs and dependents of the deceased person shall be paid in the first instance by the Central Railway and liberty is given to the Central Railway to recover the same from the Petitioner – Contractor in accordance with law.

8. This statement of Mr. Siddiqui recorded in today's order that one family member of the deceased persons shall also be factored by the learned Labour Court in the order that will be passed in the Application.

9. Needless to state that the reason for passing such order is only in the special facts and circumstances of the present case and due to the exigency mentioned by Mr. Singh so as to provide solace to the

legal heirs / family members of the deceased person.

10. This Court appreciates the conduct of the matter by Mr. Helekar as also Mr. Siddiqui for aiding and assisting the Court in disposal of the same in the peculiar facts of the present case.

11. With the above directions, Writ Petition is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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