IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.247 OF 2026

Assistant Engineer, M.S.E.B. Co Ltd. (Jalna Urban Division) And Ors.)
Vs.
Shital Vishal Mohite

..
Mr.Uday Malte, Advocate for appellant – M.S.E.D.C.L.
Mr.K.B.Jadhav, Advocate for respondent no.1 – claimant
..

AND
30 CIVIL APPLICATION NO. 4852 OF 2026
IN FA/247/2026

Shital Vishal Mohite
VERSUS
Assistant Engineer, M.S.E.B. Co Ltd. (Jalna Urban Division) And Ors.)
...
Advocate for Applicant : Mr. Jadhav Kailas B
Advocate for Respondent no.1 : Mr. Adv. Uday S. Malte
...

CORAM : AJIT B. KADETHANKAR, J.
DATE : NOVEMBER 02, 2026

ORDER :-

In First Appeal :-

Feeling aggrieved by the judgment and award dated 10.07.2025 passed by learned Commissioner for Employees' Compensation and Judge, Labour Court, Jalna in Application WCA (C) No.3 of 2021, the original respondent nos. 1 and 2, in brief M.S.E.D.C.L. has filed the First Appeal.

2. Mr.Malte, learned advocate for the appellant – M.S.E.D.C.L. submits that this is a second round of litigation between the parties. He would submit that to show the *bona fides* as also towards statutory compliance of the impugned judgment and award, the appellant has already deposited the directed amount in the Trial Court. He would submit that although the employee – employer relationship is not disputed by the appellant – company with the deceased, however, the claim petition was not at all maintainable for the reason that the death of the deceased employee did not occur in the course and out of the employment. He would candidly submit that the deceased employee was in fact engaged in a day shift. However, it was sought to be demonstrated by the claimant that the deceased was engaged in night shift. That, on the instructions of his senior, he had left the office and the accident occurred. Mr.Malte submits that the attendance register was placed on record by the authorities and the witnesses also were examined. He would submit that it was for the claimant to take the burden on her shoulder to prove that the deceased employee was engaged by the office in a night shift. He submits that it would be wholly inappropriate to cast such burden on the respondent's side in the claim petition. Thus, he submits that the main issue in the matter would be, whether the findings recorded by the Trial Court are perverse to the record.

3. Learned advocate for the claimant submits that the claimant has satisfactorily discharged her burden to prove that the deceased was very much in the employment of the appellant – company on the date of accident and at the relevant time. He would submit that the reasons recorded by the Trial Court are sufficient enough to hold entitlement of the claimant to receive the compensation.

4. With the able assistance of both sides, I have gone through the text of the impugned judgment and award. The Trial Court has held that the deceased was on duty even in the second shift on the fateful day. On that basis and holding that during that period the accident had occurred, the Trial Court observed that the death of the employee was occurred in the course and out of the employment.

5. Considering the above finding and the arguments advanced by Mr.Malte, learned advocate for the appellant – M.S.E.D.C.L., I deem it appropriate to frame the following substantial questions of law for consideration:-

(i) Whether the findings of the Trial Court in arriving at the conclusion that the deceased died in the course of employment are perverse ?

(ii) Whether the Trial Court is justified in casting burden on the respondent to prove that the deceased was not engaged in the second shift.

(iii) Whether the Trial Court is justified in imposing penalty as ordered?

6. Issue notice to the respondents. Mr.K.B.Jadhav, learned advocate waives notice for respondent no.1. The parties may address this court on the above points during final hearing.

7. Call Record and Proceedings.

8. Stand over to 18.01.2027.

In Civil Application No.4852 of 2026:

9. Heard both sides. This application is opposed by Mr.Malte, learned advocate for the respondent/M.S.E.D.C.L. The said arguments are already recorded today while framing the substantial questions of law in the appeal.

10. I find that the Trial Court has assessed the evidence on record, and by applying its judicious mind has passed the impugned judgment and order. Today, the award stands in favour of the

applicant. The applicant is a widow, aged 28 years only, left behind by the deceased employee. Certainly the rights of the parties would be decided at the time of the final hearing of the appeal after receipt of the Record and Proceedings. However, having regard to the object and purpose of the legislation, which is a piece of beneficial legislation, I deem it appropriate to allow this application partly. Hence, the following order:-

A) The application stands partly allowed.

B) The applicant is permitted to withdraw a lump sum amount of Rs.Ten Lakhs, subject to furnishing an undertaking to the satisfaction of learned Registrar (Judicial) of this Court that in the event the appellant/company succeeds in the First Appeal, the applicant shall within eight weeks thereafter refund the entire amount together with interest in this court without any default.

[AJIT B. KADETHANKAR, J.]

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