



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO. 1283 OF 2024

THE UNITED INDIA INSURANCE CO. LTD.

Vrs.

SMT. GEETA WD/O RAJKISHOR RAHATE AND OTHERS

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri H. V. Thakur, Advocate for appellant.

Ms. Rohini Mankar with Shri K. P. Mirache, Advocates for respondent
Nos.1 to 4.

Shri M. A. Vishnu, Advocate for respondent No.5.

CORAM: Y. G. KHOBRAGADE, J.

DATE : 28/04/2026.

1. Heard Shri H. V. Thakur, learned counsel appearing for the appellant, Ms. Rohini Mankar, learned counsel appearing for respondent Nos.1 to 4 and Shri M.A. Vishnu, learned counsel appearing for respondent No.5.

2. By the present appeal under Section 30(1) of the Employees Compensation Act, 1923, the appellant – Insurance Company / original non-applicant No.1 takes exception to the judgment and award dated 18/05/2024 passed in Application WCA No.(B)-69/2021 by the learned Commissioner under the Employees' Compensation Act and 2nd Labour Court, Nagpur, thereby partly allowed the claim petition and directed the present appellant / original non-applicant No.1 and original Non-applicant No.2 / present respondent No.5 jointly and

severally to pay compensation of Rs.7,02,160/- with interest @ 12 % per annum from the date of accident i.e. 04/11/2021 till its realization.

3. On the face on record, it appears that the present respondents / original applicant Nos.1 to 4 are legal heirs of deceased employee Rajkishor Rahate on 04/11/2021. The present respondents / original claimants contended that on 04/11/2021 deceased Rajkishor Rahate was working as a driver on I-20 Car bearing No.MH40-AR-0529 which was owned by non-applicant No.2 / present respondent No.5. However, on that day, the death of deceased caused due to vehicular accident during the course of employment.

4. Shri Thakur, learned counsel appearing for the appellant – Insurance Company canvassed that the deceased was not employee of the present respondent No.5 / original non-applicant No.2. So also, as per the terms and conditions of the policy, the person who was driving the vehicle was not covered. Therefore, present non-applicant Nos.1 to 4 / original applicants are not entitled for the compensation.

5. Considering the evidence available on record as well as the findings recorded by the learned Trial Court, following substantial questions of law are framed as under:-

“(i) Whether the learned Commissioner was justified in holding that the deceased was in the employment of the respondent no.5, when the respondent No.1/original applicant no.1 in her cross examination had specifically admitted that her husband deceased Rajkishor Rahate was in the employment of one Shri Nitin Kamley (who is the brother of the respondent no.5) since past 15 years ?

(ii) Whether the learned Commissioner erred in assuming the salary of the deceased Rajkishor Rahate as Rs.8000/- per month when there was no documentary evidence on record to that effect ?

(iii) Whether the learned Commissioner erred in directing the appellant Insurance Company to pay interest on the compensation amount when the liability to pay the compensation to the respondents no.1 to 4 (Ori. applicants) never fell due against the appellant Insurance Company ?”

6. **Admit**, on the above substantial questions of law.

7. Ms. Rohini Mankar, learned counsel waives service of notice for respondent Nos.1 to 4.

8. Shri M. A. Vishnu, learned counsel waives service of notice for respondent No.5.

9. The appellant to file private paper book within a period of 12 weeks.

Civil Application (CAF) No.2756/2025

10. Heard Shri H. V. Thakur, learned counsel appearing for the appellant, Ms. Rohini Mankar, learned counsel appearing for non-applicant Nos.1 to 4 and Shri M.A. Vishnu, learned counsel appearing for non-applicant No.5.

11. By the present application, the non-applicant Nos.1 to 4 / original claimants are seeking permission to withdraw the entire amount of compensation of Rs.8,87,392/- awarded under the judgment and award dated 18/05/2024 passed in Application WCA No.(B)-69/2021 by the learned Commissioner under the Employees' Compensation Act and 2nd Labour Court, Nagpur.

12. Considering the nature of claim as well as to meet financial crises, it would be just and proper to permit the present non-applicant Nos.1 to 4 of their share to withdraw 50% of the compensation along with accrued interest thereon, on furnishing undertaking to the satisfaction of the learned Registrar (Judicial).

13. Accordingly, civil application stands disposed of.

[JUDGE]