

Filed on : 09.01.2018
Registered on : 09.01.2018
Decided on : 04.02.2019
Duration : 01 Y, 00 M, 25 D

**BEFORE G.R. DHEPE, COMMISSIONER FOR EMPLOYEES'
COMPENSATION AND JUDGE, SECOND LABOUR COURT,
AHMEDNAGAR**

Misc. Application (W.C.) No. 01/2018
(CNR NO.MHLC16-000059-2018)

1. Chandrakant Shrihari Jarhad,
Age : 46 years, Occ. Majoori & Agri.,
2. Shobha Chandrakant Jarhad,
Age – 43 years, Occ.- Household,
All R/o At-Davangaon, Post-Ambi,
Tal. Rahuri, Dist. Ahmednagar.

... **Applicants**

VERSUS

1. Ashok Maruti Kasar,
Age-Adult, Occ.-Agri. & Business,
R/o At-Davangaon, Post-Ambi,
Tal. Rahuri, Dist. Ahmednagar.
2. Manager,
HDFC Ergo General Insurance Co.Ltd.,
6th Floor, Lila Business Park,
Andheri-Kurla Road, Andheri (East),
Mumbai – 59.

... **Opponents**

APPEARANCE : Shri D.Y. Jangale, Ld. Counsel for the Applicants.
Shri S.B. Salunke, Ld. Counsel for Opponent No.1.
Shri P.K. Meher, Ld. Counsel for Opponent No.2.

ORDER

(Delivered on 04.02.2019)

1. This is an application U/s 31 of the Employees' Compensation Act, 1923 for recovery of compensation of Rs.10,29,027 along with further interest w.e.f. 7.1.2018.
2. In short, the applicants have stated that their son namely Dattatray Chandrakant Jarhad, who was working as a 'Cleaner' on vehicle No. MH-17-AE-4972 owned by opponent No.1 met with an accident and died during the course and out of employment with opponent No.1. The employer-employee relationship was existing between opponent No.1 and the deceased Dattatray. The accident took place during the course and out of employment of the deceased with opponent No.1. The applicants have filed Application (W.C.) No. 8/2015 in this Court for compensation. This Court by Judgment and Order dated 7.4.2017 passed in Application (W.C.) No. 8/2015 has granted compensation of Rs. 7,44,223/- along with interest @ 12% per annum thereon from the date of accident till actual realisation of compensation and cost of application Rs. 2000/-. It is stated that the opponents have neither paid the compensation amount to the applicants nor deposited with the Commissioner. Hence, prayed to issue recovery certificate to the Collector, Ahmednagar against the opponents.

3. Opponent No.1 – owner of the vehicle has opposed the application. It is stated that the application is not maintainable. He is unnecessarily added as party in this application. Vague contentions made against him without any cause of action. The financial condition of opponent No.1 is very poor. The vehicle was insured with opponent No.2. Therefore, opponent No.2 – insurance company is liable and responsible to pay the compensation to the applicants on behalf of opponent No.1. It is stated to reject the application.
4. Opponent No.2 – HDFC Ergo General Insurance Company Ltd., appeared in the matter and filed application to stay the proceeding till the decision of the Hon'ble High Court in First Appeal No. 30595/2017. It is stated that the insurance company has filed appeal against the Judgment and Order passed by this Court in Application (WC) No. 8/2015. The Hon'ble High Court pleased to stay the execution and operation of the impugned Judgment subject to depositing compensation amount with interest. As per the order of the Hon'ble High Court, the insurance company has deposited amount of compensation of Rs. 7,44,223/- on 29.8.2017 and deposited interest amount of Rs. 3,02,175/- in this Court on 26.7.2018. The insurance company has deposited the compensation amount under protest.
5. The points for determination along with my findings thereon for the reasons to follow -

	ISSUES	FINDINGS
1.	Whether the applicants are entitled to recover the compensation amount along with interest from the opponents ?	Does not survive
2.	What order ?	Application stands disposed off.

REASONS

Point Nos. 1 & 2 -

6. Perused application, say of opponent No.1 and application filed by opponent No.2. Heard Ld. Counsel for the parties. The applicants have filed this application to recover the compensation amount of Rs. 10,29,027/- from the opponents with further interest w.e.f. 7.1.2018, pursuant to the order passed by this Court in Application (W.C.) No. 8/2015. Perused report of the Sr. Clerk filed below application. The report of Sr.Clerk discloses that during the pendency of matter, the insurance company has deposited an amount of Rs. 7,44,223/- on 29.8.2017 and interest amount of Rs. 3,02,175/- on 26.7.2018 in this Court under protest and the compensation amounts are kept in fixed Deposit in State Bank of India, Savedi Branch, Ahmednagar for the period of one year or till further orders. The main application of the applicants is for recovery of the amount of compensation along with interest and the insurance company has deposited the amount of compensation along with interest in this Court, under protest as per the Judgment and Order in Application (WC) No. 8/2015. So also

the applicants have filed separate application W.C.25/2018 for distribution of compensation amount. So also it appears that First Appeal No.30595 of 2017 is pending before the Honble High Court. Therefore, when the compensation amount is deposited in this Court by Insurance Company and First appeal is pending before the Honble High Court, the question of recovery of compensation amount is fulfilled. As regards to further interest as claimed by applicant is a matter subject to order by Hon'ble High Court in Appeal. The purpose of the applicants for recovery of amount is served. Hence, point No.1 does not survive. Accordingly, I pass following order.

ORDER

1. The application stands disposed off.
2. No order as to costs.

Sd/-

(G.R. Dhepe)

Commissioner for E.C. & Judge,
2nd Labour Court, Ahmednagar.

Date : 04.02.2019

Argued on : 29.01.2019

Order dictated on : 04.02.2019

Judgment transcribed on : 05.02.2019

Judgment checked & signed on : 05.02.2019