

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 2514 OF 2015

1. Smt. Jyoti W/o Ashok Surwase,
Age : 38 Years, Occu. : Household,
2. Priyanka D/o Ashok Surwase,
Age : 12 Years, Occu. : Education.
3. Vikesh S/o Ashok Surwase,
Age : 10 years, Occu. : Education,
4. Shakuntalabai W/o Tulsiram Surwase,
Age : 60 years, Occu. : Nil.,

All R/o Talani, Tq. Ausa,
Dist. Latur.

.. Appellants

Versus

1. Karnataka State Road Transport
Corporation, Through Divisional
Controller, Bidar, Dist. Bidar.
2. Mohd. Mukaddam S/o Mohd. Osman
Ali, Age : 40 Years, Occu. : Driver,
R/o Turori, Tq. Omerga,
Dist. Osmanabad.

.. Respondents

Shri P. R. Tandale, Advocate for Appellants.
Shri V. D. Gunale, Advocate for the Respondent No. 1.

**CORAM : S. V. GANGAPURWALA, J.
DATE : 06TH OCTOBER, 2015.**

ORAL JUDGMENT :

. Present appellants/original claimants had filed application for compensation U/Sec. 166 of the Motor Vehicles Act (for short "M. V. Act") seeking compensation on account of death of Ashok in an accident. The said claim application is rejected. Aggrieved thereby present appeal.

2. It is submitted by appellants that, the claim application is dismissed as the appellants failed to adduce any evidence. According to the learned counsel, the claim petition was filed before the Motor Accident Claims Tribunal, Latur. The claimants are residents of remote village Talani, Tq. Ausa. The claimants had engaged the advocate. The claimant No. 1 is the widow. The claimant Nos. 2 and 3 are the minors and the claimant No. 4 is age old mother of the deceased. According to the learned counsel for appellants, the appellants were not informed about the matter being fixed for evidence. As such, could not adduce the evidence. The claimants be given one more opportunity to adduce the evidence.

3. Mr. Gunale, the learned counsel for the respondent No. 1 submits that, ample opportunity was given to claimants to adduce the evidence. However, the claimants failed to adduce the evidence. No illegality has been committed by the Tribunal in dismissing the claim application. After receiving the benefit of

an award U/Sec. 140 of M. V. Act, the claimants remained consistently absent.

4. I have considered the submissions. So also I have gone through the judgment. Going by the cause title, it appears that, the claimants are residents of a remote rural village. The claimant No. 1 is widow of deceased Ashok. The claimant Nos. 2 and 3 were minor children of deceased and the claimant No. 4 is the age old mother. Naturally these claimants would rely upon the advocate to get the knowledge of further proceedings and about the aspect of evidence if led. Even the Tribunal in the impugned judgment has observed that, "the possibility of not informing the claimants about the dates of hearing cannot be ruled out. Since the claimants are residents of village Talani, Tq. Ausa, Dist. Latur." The application was for compensation on account of the death of Ashok, who was the sole bread earner.

5. Considering the aforesaid conspectus of the matter, I am inclined to grant one opportunity to claimants to prove their claim.

6. In the result, the impugned judgment and award is quashed and set aside. M.A.C.P. No. 252 of 2005 is restored to its original position. The parties shall appear before the concerned Tribunal on 16.11.2015. The parties are entitled to adduce the

evidence. The Tribunal shall thereafter decide the proceedings expeditiously considering the fact that, the matter is remitted back. The first appeal accordingly is partly allowed. No costs.

Sd/-

[S. V. GANGAPURWALA, J.]

bsb/Oct. 15