

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

WRIT PETITION NO. 11696 OF 2014

1. Alka Wd/o Ashok Dighe,
Age: 40 years, Occu: Household,
R/o. Babaleshwar, Tq. Rahata,
Dist. Ahmednagar.
2. Sumit S/o Ashok Dighe,
Age: 3 years, Occu: Nil,
R/o. Babaleshwar, Tq. Rahata,
Dist. Ahmednagar.

(The Petitioner No. 1 for
herself and minor guardian
Mother for Petitioner No. 2.)

....Petitioners

Versus

1. Meenanath Sitaram Kute,
Age: Major, Ouuc: Business,
R/o. Khawjapur, Tq. Sangamner,
Dist. Ahmednagar.
2. The Legal Manager, Shriram General
Insurance Company Limited, E-8, EPP, Rico
Industrial Area, Sitapur, Jaipur,
Rajsthan 302022.
3. Usha wd/o Ashok Dighe,
Age 42 years, Occu. Household,
R/o. Sakuri, Tq. Rahata,
Dist. Ahmednagar.
4. Amruta D/o Ashok Dighe,
Age 19 years, Occu. Education,
R/o. Sakuri, Tq. Rahata,
Dist. Ahmednagar.
5. Saurabh s/o. Ashok Dighe,
Age 18 years, Occu. Education,
R/o. Sakuri, Tq. Rahata,
Dist. Ahmednagar.

.....Respondents.

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Advocate for Petitioners : Shaikh Mazhar A. Jahagirdar
Advocate for Respondents 3 to 5 : A.S. Gandhi
Advocate for Respondent 2 : S.G. Chapalgaonker

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CORAM : T.V. NALAWADE, J.
DATED : 2nd September, 2016.

JUDGMENT :

1. Rule. Rule made returnable forthwith. By consent, heard both the sides for final disposal.

2) The petition is filed to challenge the order made by the learned Presiding Officer of the Claims Tribunal, Kopargaon, District Ahmednagar in Claim Petition No. 57/2013. The application filed by petitioners at Exh. 13 to give them permission to come on record in the petition is rejected by the Claims Tribunal after hearing both the parties.

3) The claim is filed by present respondents - Smt. Usha Ashok Dighe etc. in respect of death of one Ashok Dighe. Smt. Usha is claiming that she is wife of Ashok Dighe and other two claimants are issues of Usha born from Ashok.

4) In the application filed by the present petitioners, Smt. Alka has contended that she is wife of Ashok and the other applicant Sumit is son born to her from Ashok. She contended

that she is also entitled to get compensation and so, she needs to be made party to the petition.

5) It appears that before Tribunal birth certificate in respect of Sumit was produced and the certificate was showing that Alka Rohidas Landge was his mother and Rohidas Landge was father. Date of birth of Sumit was shown as 21.9.2010 and the birth was reported to authority on 30.9.2010. It is the case of Alka that Rohidas Landge is her father and due to oversight the name of father was given as the name of husband of Alka to the authority, but that mistake is corrected subsequently. The correct certificate is produced on the record and except the corrections of the name of Alka and the name of father, other information is kept intact and names are only corrected. Alka also wants to rely on the other circumstance like ration card showing that in the year 2014 new ration card was issued on the basis of previous ration card to the family of Ashok.

6) The learned counsel for respondents submitted that in the year 2014 Ashok was dead, but his name was still shown in ration card and this record is doubtful in nature. This circumstance need not be considered in the proceeding like present one. When the application is filed for allowing the third

party to join the proceeding and there are aforesaid contentions, it is always desirable to give opportunity to the said party to prove the contention and that needs to be done. This Court holds that aforesaid record was sufficient to allow the present petitioners to join the proceeding as party respondent and Claims Tribunal has committed error in rejecting the application. Further compensation amount also changes if there were more dependents to the deceased and this circumstance cannot be said as adverse against the petitioners.

5) In the result, petition is allowed. The order made by the learned Presiding Officer of Claims Tribunal is hereby set aside. Aforesaid application is allowed. The petitioners are allowed to join as a party respondent. The point of entitlement of the petitioners to get compensation as heirs of Ashok is kept open. The Tribunal is not to get influenced due to some observations made by this Court in this proceeding. The Tribunal is expected to dispose of the proceeding within six months from the date of receipt of this order.

Rule is made absolute in aforesaid terms.

[T.V. NALAWADE, J.]

ssc/