

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 2175 OF 2016

SUNANDA VILAS CHOUDHARI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Advocate for Petitioners : Mr. S.B. Sontakke
AGP for Respondents 1 to 4 : Mr. A.V. Deshmukh
Advocate for respondent No.5 : Mr. M.M. Ambhore.

CORAM : S.V. GANGAPURWALA &
K.K. SONAWANE, JJ.

DATE : 3rd May, 2016.

PER COURT:

1] Heard. The contention is that, the deceased Prafulla was on foot. Petitioner is the mother of the deceased. The claim is repudiated by the Insurance Company only on the ground that the deceased was not possessing a driving licence.

2] The State has filed an affidavit. Paragraph Nos. 3 and 4 of the said affidavit read as under :-

“3. I say and submit that, through this Writ Petition the petitioner contends that the son of the petitioner died in a road accident on 12.6.2012. It is further contended that the petitioner who is the mother of deceased Prafulla filed an application for compensation under “Shetkari Janta Apaghat Vima Yojana”. I say and submit that, accordingly the respondent No.4 forwarded the said application to respondent No.5 Insurance Company for sanction of the compensation amount. I further say and submit that, it seems that, the Insurance Company has rejected the claim of the present petitioner on the ground that, the deceased was not holding

valid driving license at the time of his death.

4. I say and submit that, in the present case, as per FIR that has been lodged, it can be seen that, the deceased Prafulla was not on any vehicle or was not driving any vehicle but was on foot when the accident took place. Therefore, it can be said that, the contention of the Insurance Company that, there was no valid driving licence with the deceased is ill founded. I say and submit that, had petitioner come with the case that her son was driving or riding a vehicle, then in that case the question of valid driving license would arise, but in the present case from the FIR, petitioner's son Prafulla was walking and was hit by another unknown vehicle, therefore, question of asking valid driving license from the deceased Prafulla is ill founded..”

3] Upon perusal of the affidavit it is clear that even as per the FIR lodged, deceased Prafulla was not driving any vehicle and he was on foot. As such, no question arises about the issue of possessing a driving licence. Deceased was hit by an unknown vehicle. The affidavit filed by the Technical Officer in the office of the District Superintending Agricultural Officer, is amply clear.

4] In the light of the above, the respondent Insurance Company shall process the claim and award compensation to the petitioner. The same shall be done within 3 months from today. Writ petition is disposed of. No costs.

[K.K. SONAWANE,J.]

[S.V.GANGAPURWALA,J]

grt/-