

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

BENCH AT AURANGABAD.

WRIT PETITION NO.3110 OF 2013

Smt.Salima W/o Anwar Pathan
and others. ... Petitioners.

Versus

Bhanudas S/o Sakahari Kulat
and another. ... Respondents.

...
Mr.H.I.Pathan, advocate for the petitioners.
Mr.S.R.Bodade, advocate for Respondent No.2.
...

CORAM : S.V.GANGAPURWALA J.

Date : 28.08.2017.

PER COURT :

1. Mr.Pathan, learned counsel submits that the petitioner is the widow and daughters of deceased Anwar Pathan, who died in an accident. The claimants in the Motor Accident Claims Petition were the present petitioners and the mother of the deceased. The claim petition was

decided by the Tribunal holding the present petitioners and the mother of the deceased entitled for compensation. The execution proceedings were filed. The mother of the deceased also expired on 17.1.2013. In view of the death of the mother of the deceased, the petitioners would be the only claimants and would be entitled to receive the entire compensation amount as the mother of the deceased Ratanbi and the present petitioners were held to be the dependents. However, the learned trial Judge has erroneously rejected the application filed by the petitioners.

2. Mr.Bodade, learned counsel for the Respondent No.2 supports the order.

3. The arguments of Mr.Pathan, learned counsel could have been accepted, had the mother of the deceased died before the claim petition was decided. After the claim petition is decided, the rights of the parties are crystalised and the estate of the mother of the deceased will vest in the legal representatives

even as per Section 11 of the C.P.C. and even according to Personal law of the deceased.

4. The petitioner may bring on record the legal heirs of deceased mother Ratanbi, if they are in existence. If there are no other legal heirs of deceased Ratanbi then the petitioners can claim the amount of the share of the mother.

5. The Writ Petition is accordingly disposed of. No costs.

(S . V . GANGAPURWALA, J .)

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