

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 163 OF 2016
IN
FIRST APPEAL NO. 781 OF 2014

Najma Abdul Rashid Shaikh & Ors	...Applicants.
<i>In the matter between</i>	
Northwest Karnataka State Road Transport Corporation	...Appellant
<i>Versus</i>	
Najma Abdul Rashid Shaikh & Ors	...Respondents

Mr CM Lokesh, for the Appellant.
Mrs Anita A Agrawal, for Respondents Nos.1 to 4/Applicants.

CORAM: G.S. PATEL, J
DATED: 25th July 2017

PC:-

1. The deceased was a horse jockey and trainer. He was travelling on 23rd April 2009 in a State Transport Bus from Borivali towards Belgaum. He had a valid ticket. When he began the journey he took a seat at the rear of the bus. The bus conductor asked him to move to a forward set, which he did. The bus left Borivali and passed Pune. On the Pune-Bangalore Highway in the stretch between Karad and Kolhapur near Kasegaon Police Station, at about 4.45 am on 24th April 2009, the bus went headlong into a stationary

breakdown truck. The passengers seats were totally damaged. The deceased Riyaz was so severally injured that he died on the spot.

2. The principal grounds in the appeal are, first, that the bus driver was negligent and, second, that the deceased's income was incorrectly reckoned. As to the first ground there is no dispute that the policy was a comprehensive policy and covered third party risk as well.

3. Having regard to these circumstances, and to the fact that of the amount of Rs.17,60,176/- an amount of Rs.6,00,000/- has already admittedly been withdrawn, I will permit the claimants to withdraw an additional amount of Rs.4,00,000/- without undertaking or security. The 1st Claimant is the aged mother of the deceased. The 2nd Claimant is her younger son. At the time of the accident, both were dependent on the deceased's earnings.

4. The Motor Accident Claims Tribunal ("MACT"), Pune, will permit the withdrawal with accrued interest on production of an authenticated copy of this order.

5. The statutory deposit of Rs.25,000/- is also be transferred to the MACT, Pune and to be invested in a fixed deposit in a nationalised bank.

6. The Civil Application is disposed of in these terms. No costs.

(G. S. PATEL, J.)