

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

903 WRIT PETITION NO.3597 OF 2001

1. Vinayakrao S/o. Raghuji Bhadage,
Age: 68 years, Occu.: Pensioner,
resident of Lane No.6, Dhule,
District Dhule.
2. Monika D/o. Ramesh Wanjari
Age: 11 years, Occu.: education,
minor through her guardian
grand-father Vinayakrao Raghuji
Bhadage i.e. Petitioner No.1. ..Petitioners

Versus

1. Kalawati Tukaram Wanjari
Age: 63 years, Occu.: household,
resident of Parwali Kunwa,
Near Amar Talkies, Desaipura,
Nandurbar, District Nandurbar.
2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Dhule Division,
Dhule, District Dhule. ..Respondents

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**WITH
WRIT PETITION NO. 3599 OF 2001**

1. Vinayakrao S/o. Raghuji Bhadage,
Age: 68 years, Occu.: Pensioner,
resident of Lane No.6, Dhule,
District Dhule.
2. Monika D/o. Ramesh Wanjari
Age: 11 years, Occu.: education,
minor through her guardian
grand-father Vinayakrao Raghuji
Bhadage i.e. Petitioner No.1. ..Petitioners

Versus

1. Kalawati Tukaram Wanjari
Age: 63 years, Occ.: household,
resident of Parwali Kunwa,
Near Amar Talkies, Desaipura,
Nandurbar, District Nandurbar.
2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Dhule Division,
Dhule, District Dhule. ..Respondents

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WITH**WRIT PETITION NO. 3600 OF 2001**

1. Vinayakrao S/o. Raghuji Bhadage,
Age: 68 years, Occu.: Pensioner,
resident of Lane No.6, Dhule,
District Dhule.
2. Monika D/o. Ramesh Wanjari
Age: 11 years, Occu.: education,
minor through her guardian
grand-father Vinayakrao Raghuji
Bhadage i.e. Petitioner No.1. ..Petitioners

Versus

1. Kalawati Tukaram Wanjari
Age: 63 years, Occ.: household,
resident of Parwali Kunwa,
Near Amar Talkies, Desaipura,
Nandurbar, District Nandurbar.
2. The Divisional Controller,
Maharashtra State Road Transport
Corporation, Dhule Division,
Dhule, District Dhule. ..Respondents

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Advocate for Petitioners : Shri S.N.Suryawanshi h/f.

Shri N.B.Suryawanshi

Advocate for Respondent No.1: Shri Yogesh Bolkar h/f.

Shri R.S.Shinde

Advocate for Respondent No.2: Shri Dipesh Pande h/f.

Shri D.S.Bagul

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CORAM : P.R.BORA, J.

DATE: 9th October, 2018

ORAL JUDGMENT:-

1. Since in all these Writ Petitions common issue is raised, I have heard common arguments in these matters and I deem it appropriate to decide these Writ Petitions by common reasoning.

2. In a vehicular accident happened in the year 1998, the father, mother, brother and sister of petitioner No.2 - Monika, had expired. At the relevant time, Monika was aged about nine years. The paternal grandmother of Monika filed total four claim petitions claiming compensation on account of the death of the aforesaid four persons. In all the claim petitions, Monika was second petitioner alongwith her paternal grandmother. In the aforesaid claim petitions, intervention application was filed by the present petitioner No.1, who is the maternal grandfather of petitioner No.2 - Monika. It was his contention that since he was appointed as guardian of petitioner No.2 - Monika, he must have been shown her guardian in the aforesaid claim petitions and the Tribunal has committed gross error in rejecting the request made by him in that regard.

3. This Court, while issuing notice in these Writ Petitions on

19.09.2001 had granted interim exparte relief in terms of prayer clauses (F) and (G). The Prayer Clauses (F) and (G) read thus:-

“(F) Pending the hearing and final disposal of this writ petition, grant stay to the impugned order passed by learned Member, Motor Accident Claims Tribunal, Dhule below Exh.16 in M.A.C. Petition No.1137/1998 dated 30.7.2001 (EXHIBIT “B”) and for that purpose issue necessary orders;

(G) Pending the hearing and final disposal of this writ petition, grant an injunction restraining the respondent no.1 from withdrawing the amount of her share from the No Fault Liability amount deposited in M.A.C. Petition No.1137/1998 and for that purpose issue necessary orders.”

4. When the present Writ Petitions are taken up for hearing today, Shri Suryawanshi, learned Counsel appearing for the petitioners, submitted that all the four claim petitions have been finally decided by the Motor Accident Claims Tribunal at Dhule. The copies of three such Judgments are tendered across the bar by Shri Suryawanshi, which demonstrate that Motor Accident Claim Petition Nos.1136 of 1998, 1137 of 1998 and 1138 of 1998 were decided on 24.03.2005.

5. In view of the facts as aforesaid, it appears to me that

there is no propriety now in proceeding with these Writ Petitions. In the Writ Petitions, the only grievance of petitioner No.1 was that in the claim petitions, he was required to be shown as the guardian of Monika and not respondent No.1. It is not in dispute that pending these Writ Petitions, the claim petitions have been finally disposed of. It is thus evident that the present Writ Petitions have become infructuous.

6. The only anxiety in filing these Writ Petitions was to protect the interest of petitioner No.2 - Monika. When the Writ Petitions are now taken up for hearing, no such case is pleaded by the petitioners that any injustice has been caused to petitioner No.2 - Monika in the decisions rendered by the Motor Accident Claims Tribunal, Dhule in the said four claim petitions because of refusal of the request by the Tribunal to show petitioner No.1 as the guardian of petitioner No.2. There is reason to believe that the claim petitions are decided to the satisfaction of the petitioners. In the circumstances, it appears to me that there is no propriety now in keeping these Writ Petitions pending.

7. The only order, which needs to be passed while disposing of these Writ Petitions pertains to the disbursement of the amount of no fault liability compensation. It appears to me that

the present Writ Petitions can be disposed of by directing the Motor Accident Claims Tribunal, Dhule, to remit the amount of no fault liability compensation lying with the Tribunal in favour of the claimants in the said petitions in the same proportion it has apportioned the amount of compensation in the final decision – award. In case no such apportionment is made by the Tribunal, it is directed that the Tribunal shall disburse the amount in equal proportion to the two claimants in the claim petitions. If petitioner No.1 may not be surviving, the Tribunal shall pay the entire amount of no fault liability compensation alongwith interest accrued thereon to petitioner No.2 namely Monika Ramesh Wanjari.

8. With the order as aforesaid, these Writ Petitions stand disposed of.

(P.R.BORA)
JUDGE

SPT