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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVILL APPLICATION NO.2844 OF 2017
IN
FIRST APPEAL NO.2525 OF 2011**

Abhay Arjun Gaikwad ... Applicant.

In the matter between

Maharashtra State
Road Transport Corporation ... Appellant

-vs-

Nirmala Arjun Gaikwad and ors ... Respondent.

Mr. Sandeep Salunke, for the applicant.

Mr. P.G. Lad, for appellant.

Ms. S.S. Dwivedi, for respondent No.7

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 12th SEPTEMBER, 2018.

P.C. :

1] Heard learned counsel for the applicant and appellant.

2] This application is filed for withdrawal of the amount of compensation. It is submitted that the withdrawal of the amount is claimed on the ground that the applicants require the said amount for education of children

3] Learned counsel for appellant strongly resist this application, on the ground that earlier also the claimants were permitted to withdraw 50% amount of compensation, though the

application was for withdrawal of the entire amount, considering the case of contributory negligence, application was partly allowed. Hence, it is submitted that the present, application is not tenable.

4] However, it is pointed out by learned counsel for claimant that the deceased was a passenger in the S.T., bus, which met with an accident with the truck, therefore, it follows it was not a case of contributory negligence, but it is a case of composite negligence.

5] In view thereof, the liability of appellant S.T. Corporation and also the insurance company of the truck, is joint and several and therefore, this cannot a ground to deny the withdrawal of the amount to the claimant.

6] Considering the requirement of the applicants, claimants are permitted to withdraw an amount to the extent of 20% without security but on furnishing usual undertaking.

7] Application is disposed off .

[DR.SHALINI PHANSALKAR-JOSHI, J.]