

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2878 OF 2017
IN
FIRST APPEAL (STAMP) NO.35800 OF 2012

Lalita Bharat Gaikwad and Anr.	 Applicants
<i>In the matter between</i>	
Maharashtra State Road Transport Corporation, Mumbai	 Appellant
<i>V/s.</i>	
Lalita Bharat Gaikwad and Ors.	 Respondents

Ms. Reena Kundu for the Applicants.

Mr. C.M. Lokesh, I/by M/s. G.S. Hegde & Associates, for the Appellant-MSRTC.

CORAM : **DR. SHALINI PHANSALKAR-JOSHI, J.**

DATE : **17TH OCTOBER, 2018.**

P.C. :

1. Heard Ms. Kundu, learned counsel for the Applicants, and Mr. Lokesh, learned counsel for the Appellant-Transport Corporation.
2. This is an application preferred by Original Claimant Nos.1 and 2, seeking withdrawal of some amount of compensation.
3. It is pointed out by learned counsel for the Applicants that, as per the order passed by this Court on 15th April 2014 in Civil Application No.507 of 2014, the parents of the 'Deceased', i.e. Original Claimant Nos.3 and 4, were permitted to withdraw the amount of Rs.4,00,000/- each;

whereas, the present Applicants were permitted to withdraw only the quarterly interest.

4. Learned counsel for the Appellant-MSRTC submits that, the S.T. Bus of the Appellant-Corporation was not at all involved in the accident and, therefore, this application for withdrawal of the amount of compensation deposited by the Appellant-MSRTC cannot be allowed. However, having regard to the Judgment of the Tribunal, which shows that, no evidence is led to that effect by the Appellant-MSRTC and as already the other two Claimants are permitted to withdraw certain amount and considering that the present Applicants require some amount for their maintenance and for education of the minor child, this Civil Application needs to be allowed.

5. The Civil Application is, accordingly, allowed partly. Applicant-Claimant No.1 alone is permitted to withdraw the amount of Rs.5,00,000/-, subject to furnishing of usual undertaking.

6. So far as Applicant-Claimant No.2 is concerned, she being minor, the amount of her share cannot be permitted to be withdrawn. The balance amount of compensation may remain invested in the Nationalized Bank.

7. Civil Application is disposed off in the above terms.

[DR. SHALINI PHANSALKAR-JOSHI, J.]