

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.1955 OF 2019
IN
FIRST APPEAL (ST.) NO.35282 OF 2017
(Bhagyashri Datta Mundkar and others Vs. R. Manoharan
and others)

Mr. Fayaz K. Patel, Advocate for the applicants
Mr. S.R. Bodade, Advocate for respondent No.3

CORAM : MANGESH S. PATIL, J.

DATE : 27th NOVEMBER, 2019

PER COURT :

Heard both the sides.

2. The learned Advocate for the Insurance Company opposes the application. He submits that the deceased was wholly responsible for the incident. Had he not gone there near the bore-well machine, the accident would not have occurred. He further submits that the compensation assessed is on higher side.

3. The learned Advocate for the claimants submits that there was sufficient material before the Tribunal to assess the compensation. The deceased was 26 years old and was a businessman. Tax Returns were filed before the Tribunal and it has arrived at an

objective conclusion that considering the loss of dependency and the compensation having been assessed according to the principles laid down in the case of *Sarla Verma & others Vs. Delhi Transport Corporation and another (2009) 6 SCC 121*, the applicants/claimants be paid the entire amount.

4. Obviously, claimant No.4 is still minor. Therefore, nothing can be allowed to be withdrawn in his respect. Considering the facts and circumstances, when already the Tribunal has assessed the compensation by holding the deceased to be equally responsible and has deducted 50%, the applicants/claimants deserve to be paid 80% of the amount of compensation with usual terms and conditions.

5. The Civil Application is allowed. The applicants/claimants, who are major, only are allowed to withdraw 80% of the amount of compensation in aggregate together with interest in the apportionment done by the Tribunal by furnishing usual undertaking.

[MANGESH S. PATIL]
JUDGE

