

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

**914 CIVIL APPLICATION NO.13399 OF 2019
IN FAST/7894/2019**

**SUDHAKAR TARACHAND PARDESHI
VERSUS
THE NEW INDIA INSURANCE CO. LTD., THR ITS BRANCH MANAGER AND
ANR**

...
Advocate for Applicants : Mr. Sachin Deshmukh h/f. Mr. Shaikh Majit S
Advocate for Respondent : Mr. Ajit Kadethankar
...

CORAM : MANGESH S. PATIL, J.

DATE : 06.12.2019

PER COURT :

Heard both the sides.

2. The learned advocate for the insurance company raises a preliminary objection as to the maintainability of the claim by the applicant who is the brother of the deceased on the ground that the applicant cannot be considered as a dependent of the deceased and would not be entitled to claim any compensation under the head of loss of dependency.

3. The learned advocate for the applicant points out that in the case of **Gujarat State Road Transport Corporation, Ahmedabad Vs. Ramanbhai Prabhatbhai and Anr.; (1987) 3 Supreme Court Cases 234**, it has been held that even a brother being a legal representative of the deceased can claim compensation under the Motor Vehicle Act.

4. The learned advocate for the insurance company submits that

the question here would be entitlement to claim compensation under the head of loss of dependency and not as regards a right of the brother to file petition and claim compensation under various other heads.

5. I have carefully gone through the papers. In the case of Gujarat State Road Transport (*supra*) after considering the entitlement of a person who is not the wife, husband, parent or child of the deceased, *qua* the provision of Fatal Accident Act, 1855 and Motor Vehicles Act, 1939, no qualification has been added to make any distinction as regards entitlement of a brother to claim compensation under different heads when a claim is lodged under the Motor Vehicles Act.

6. Considering all the aforementioned facts and circumstances, the applicant is allowed to withdraw 75% of the amount deposited in this Court together with interest by furnishing undertaking in usual terms.

(MANGESH S. PATIL, J.)

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