

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

**45 CIVIL APPLICATION NO.13951 OF 2019
IN FAST/5163/2019**

**SAVITRABAI SUBHASH MENDKE AND ORS
VERSUS
M.S.R.T.C., THR DIV. CONTROLLER, MSRTC, NANDED DIV. NANDED.**

...
Advocate for Applicants : Mr. Bhosle Santosh C.
Advocate for the respondents: Mr. M.K. Goyanka
...

CORAM : MANGESH S. PATIL, J.

DATE : 02.12.2019

PER COURT :

Heard both the sides.

2. The original claimants are seeking withdrawal of the amount of compensation deposited by the appellant corporation in this Court pursuant to the impugned award.

3. The learned advocate for the corporation strongly opposes the application. He submits that it is a matter of contributory negligence. The deceased was riding the motorcycle and was equally responsible for causing the accident.

4. Having considered the entire conspectus of the matter, in my considered view it is a fit case where the original claimant can be allowed to withdraw some fraction of the compensation amount by furnishing usual undertaking.

5. However, considering the fact that the applicant nos. 2 to 5 are the minor children of the deceased, nothing can be allowed to be withdrawn *qua* them. Therefore, the applicant no. 1 is allowed to withdraw Rs.1,00,000/- and the applicant no. 6 is allowed to withdraw Rs.50,000/- by furnishing usual undertaking.

(MANGESH S. PATIL, J.)

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