

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

943 CIVIL APPLICATION NO.14561 OF 2019
IN FA/2799/2019

URMILA LAXMAN MHETRE AND OTHERS.
VERSUS
THE MANAGING DIRECTOR, NORTH-EAST KARNATAKA STATE ROAD
TRANSPORT CO., GULBARGA (K.S.) AND OTHERS

...
Advocate for Applicants : Undre Vikram S. (vp Not Filed)
Advocate for Respondent no.1 : Shri U.D. Kodale h/f Shri V.D. Gunale

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943 CIVIL APPLICATION NO.14566 OF 2019
IN FA/2799/2019

DATTU NAMDEV MHETRE AND ANOTHER.
VERSUS
THE MANAGING DIRECTOR, NORTH-EAST KARNATAKA STATE ROAD
TRANSPORT CO., GULBARGA (K.S.) AND OTHERS

...
Advocate for Applicants : Undre Vikram S. (vp Not Filed)
Advocate for Respondent no.1 : Shri U.D. Kodale h/f Shri V.D. Gunale

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CORAM: V.L. ACHLIYA, J.

DATE: 13.12.2019

PER COURT :

- 1] Heard learned counsel for the applicants - claimants and the learned counsel representing the respondent no.1.
- 2] Both these applications are filed by the claimants seeking withdrawal of the amount.
- 3] The applicants in Civil Application No.14561/2019 are wife and

children of the deceased Laxman, who died in the accident. Whereas in Civil Application No.14566/2019 are father and mother of the deceased Laxman.

4] In brief, it is the contention of learned counsel for the respondent no.1 herein who filed the first appeal that it has a good case to succeed in the appeal. It is submitted that the deceased was driver of MSRTC Bus involved in the accident. There was head-on collision between the Bus driven by the deceased and the Bus owned by the respondent no.1 - Transport Corporation, Karnataka. The MSRTC, in whose employment the deceased was employed, was not made party to the claim petition. According to the learned counsel, the Tribunal has erred to hold that the accident had occurred due to sole negligence on the part of driver of the Bus owned by the respondent no.1 - appellant. It is submitted that the evidence on record clearly makes out a case of contributory negligence. On the other hand, the learned counsel for the applicants - claimants supports the judgment and order passed by the Tribunal and submits that the Tribunal has examined the aspect in minute details and there is no perversity in the judgment and order passed by the Tribunal.

5] On due consideration of the submissions advanced and the order passed by the Tribunal including the order of apportionment,

following order would meet the ends of justice.

ORDER

A] The applicant no.1 - Urmila widow of Laxman Mhetre in Civil Application No.14561/2019 is permitted to withdraw amount to the extent of Rs.3,00,000/- subject to furnishing an undertaking to the satisfaction of the Registrar (Judicial) that in the event the award is set aside or modified by this Court and the applicant no.1 is ordered to re-deposit the amount, the same shall be deposited within four weeks from the date of such order.

B] The amount as per apportionment made and order passed by the Tribunal be invested in fixed deposit in the name of applicant nos.2 and 3, who are minors and the interest accrued over the amount be credited to the savings account of the applicant no.1 after every three months so as to enable her to maintain herself and to take care of the applicant nos.2 & 3.

C] The applicant nos.1 & 2 in Civil Application No.14566/2019 are allowed to withdraw amount to the extent of Rs.1,30,000/- each subject to furnishing an undertaking to the satisfaction of the Registrar (Judicial) that in the event the award is set aside or modified by

this Court and the applicant nos.1 & 2 are ordered to re-deposit the amount, the same shall be deposited within four weeks from the date of such order.

D] Balance amount be invested in fixed deposit in the name of applicant nos.1 & 2 in Civil Application No.14566/2019 initially for a period of two years. The interest accrued over the amount invested be credited in their respective savings bank account after every three months to maintain themselves.

E] Above order of withdrawal and payments shall be subject to final outcome of the first appeal.

F] Both the civil applications are disposed of in above terms.

(V.L. ACHLIYA, J.)