

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2554 OF 2019
IN
FIRST APPEAL NO. 1170 OF 2018

Smt.Kirti Chandrakant Salunkhe & Ors. ...Applicants

IN THE MATTER BETWEEN

Thane Municipal Transport undertaking,
Represented by Transport Manager ...Appellant

Versus

Smt.Kirti Chandrakant Salunkhe & Ors. ...Respondents

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Mr.Rohan S. Darandale for the Applicants.
Mr.Jaydeep Thakker for the Appellant.
Ms.Tanaya Goswami -AGP for the Respondent -State.

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CORAM: V.G.BISHT, J.
DATE: 9th JANUARY, 2020

PC:-

1. Heard Mr. Rohan Darandale, learned Counsel for the applicants and Mr.Jaydeep Thakker, learned Counsel for the appellant.

2. The learned Counsel for the appellant relies on the judgments of the Supreme Court in the cases of *Vimal Kanwar and others Versus Kishore Dan and Others* reported in (2013) 7 SCC 476 and *Helen C. Rebello (Mrs.) and Others Versus Maharashtra State Road Transport Corporation and another* reported in (1999) 1 SCC 90. He opposes the Application on the ground that the claimants/ applicants have already received one time compensation to the tune of approximately Rs.26 lacs for loss of life of the deceased and this fact is conveniently suppressed by them. Since their pecuniary interest has already been secured, it would not be proper, particularly, when the judgment and order of the learned Member, M.A.C.T., Thane is impugned in the present Appeal to allow them to withdraw the amount of Rs. 40 lacs deposited by the appellant.

3. I have gone through the judgments relied upon by the learned Counsel for the appellant. In my considered opinion, the ratio laid down therein can at the most be seen at the time of hearing of the present Appeal and not at this stage.

4. Similarly, even assuming for the sake of arguments that the claimants/ applicants have received some pecuniary benefits from the department of the deceased that itself would not preclude them from claiming the amount of compensation deposited by the appellant pursuant to the order of this Court.

5. In my opinion, the applicants are entitled to withdraw 50% of the amount deposited by the appellant and accordingly, they are permitted to withdraw the same on an usual undertaking before the learned Member. The remaining amount is to be deposited in the fixed deposit of any nationalized bank.

6. Civil Application is allowed and accordingly disposed of.

(VG.BISHT, J.)