

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2992 OF 2021
IN
FIRST APPEAL NO.156 OF 2021

Shantabai Hari Mondhe and Anr.

...Applicants

vs.

The Maharashtra State Road Transport
Corporation

...Respondent

Mr. Pritesh Bohade, for the Applicants.

Mr. Nilesh Bhutekar, for the Respondent.

CORAM : N. J. JAMADAR, J.

DATE : OCTOBER 22, 2021

P.C.:

1. This is an application for permission to withdraw the amount of compensation deposited by the respondent/appellant in terms of the award in MACP No.1333 of 2017 dated 7th September, 2018 passed by the learned Member, MAST, Nashik.

2. Heard the learned counsel for the applicants and the learned counsel for the respondent/appellant.

3. The learned counsel for the appellant urged that the learned Member committed an error in awarding the compensation to the applicants as the deceased son of the applicants, who was then only 14 years of age, was riding motor cycle and no negligence could have been thus attributed to the driver of the offending ST bus. It was submitted that there is a fair chance of success in the appeal and in the event the applicants are permitted to withdraw the

amount of compensation, the appellant would be left in the lurch.

4. The submission advanced by the learned counsel for the appellant as regards the age of the deceased and the fact that the deceased was riding the motor cycle at the time of the accident, appears factually sustainable. However, the Tribunal has ascribed reasons for arriving at the conclusion that the driver of the ST bus was at fault. In this view of the matter, the submission on behalf of the appellant can be legitimately considered at the stage of final hearing of the appeal.

5. In the meanwhile, the applicants can be permitted to withdraw some portion of the amount of compensation subject to furnishing an undertaking to bring back the amount in the event appeal is allowed, which would take care of the concern of the appellant. Hence, the following order.

ORDER

1] The application stands partly allowed.

2] The applicants are permitted to withdraw 50% of the amount of compensation awarded by the learned Member, MACT, Nashik in MACP No. 1333 of 2017 and the interest accrued thereon subject to furnishing an undertaking, before the Tribunal, to bring back the said amount along with interest at such rate as may be determined

by this Court, in the event the appeal is allowed and it is held that the applicants are not entitled to compensation.

3] The application accordingly stands disposed of.

(N. J. JAMADAR, J.)