

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

905 CIVIL APPLICATION NO.955 OF 2022
IN FA/1983/2021

SHAMRAO SAHEBRAO ITHAPE AND ANR ..APPLICANTS

VERSUS

THE DIVISIONAL CONTROLLER, MAHARASHTRA
STATE ROAD TRANSPORT CORPORATION,
AHMEDNAGAR ..RESPONDENT

Advocate for the Applicants : Mr. Y. V. Kakde
Advocate for Respondent : Mr. A. D. Wange

CORAM : VINAY JOSHI, J.
DATE : 16.02.2022.

PER COURT :-

This is an application seeking for withdrawal of compensation amount. The applicants are legal heirs of deceased Dnyaneshwar who died in vehicular accident on 19.12.2018. After recording evidence the tribunal has assessed the total compensation to the tune of Rs. 15,42,000/- by holding that the State Transport Bus driver was responsible for the accident.

2. In pursuance of order of this Court, the appellant-M.S.R.T.C has deposited the entire awarded amount. The

applicants who are parents of the deceased have no source of income. Hence they seek for withdrawal.

3. The learned counsel appearing for the respondent/appellant has objected by raising three grounds that firstly; the tribunal has erred in holding notional income of the deceased to the extent of Rs. 10,000/- per month secondly; the accident took place at the midst of road and therefore it was the case of contributory negligence and last point is about grant of excessive rate of interest by the tribunal.

4. Perused the record as well as impugned Judgment and order. It is evident that there is no dispute about involvement of State Transport Bus for the concerned accident as well as death of Dnyaneshwar in said vehicular accident.

5. The respondent-M.S.R.T.C has not led any evidence on the point of negligence. The deceased was allegedly doing the work of running Hotel business, however, documents are not produced about his income. The appeal will take its own time for disposal. In the mean time parents of the deceased cannot be deprived.

6. Having regard to the arguable points canvassed by the respondent, at present applicants are permitted to withdraw 75% of the awarded amount on furnishing usual undertaking.

7. Application stands disposed of.

**(VINAY JOSHI)
JUDGE**

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