

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

CIVIL APPLICATION NO.4671 OF 2022 IN FA/836/2021

**BALIRAM DEORAO KURUND AND ANOTHER
VERSUS
M.S.R.T.C., THROUGH THE DIVISIONAL CONTROLLER,
OSMANABAD**

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Mr. S.A. Wakure, Advocate for the Applicants
Mr. M.K. Goyankar, Advocate for Respondent

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CORAM : SHRIKANT D. KULKARNI, J.

DATE : 29th MARCH, 2022

PER COURT:-

1. It is an application for withdrawal of compensation amount moved by the applicants / claimants.
2. Heard Mr. Wakure, learned counsel for the applicants / claimants and Mr. Goyanka, learned counsel for the respondent / M.S.R.T.C.. Perused the impugned judgment and award passed in M.A.C.P.410 of 2016.
3. The son of the applicants died in a motor vehicle accident. It was a death claim. The learned Tribunal after considering the rival pleadings of the parties and evidence on record and considering the argument advanced by both the sides was pleased to allow the claim partly and directed to the M.S.R.T.C. to pay

compensation of Rs.10,00,000/- with interest at the rate of 7% per annum from the date of filing of the petition till its realization. That impugned judgment and award passed by the Tribunal is challenged before this court mainly on two grounds; (i) the learned Tribunal has failed to appreciate contributory negligence, and (ii) improper calculations by applying incorrect multiplier resulting in exorbitant compensation. This Court (Coram : R.G. Avachat, J.) was pleased to grant stay to the impugned judgment and award vide order dated 15.11.2021 with direction to deposit 50% of the amount under the impugned award. The appellant / M.S.R.T.C. complied with the conditional stay order and deposited 50% of the amount under the impugned award. As observed earlier, it is a death claim. The applicants have lost their son, who was taking education at the time of the accident. This Court has already taken care of the interest of the appellant / insurance company by withholding 50% amount of compensation. As such, I am of the view that the applicants / claimants being parents are entitled to get the entire amount of compensation deposited by the appellant / M.S.R.T.C. However, by furnishing necessary undertaking to the satisfaction of the Registrar (Judicial) of this Court.

ORDER

- (i) The application is hereby allowed.
- (ii) The applicants / claimants are hereby permitted to withdraw the entire amount of compensation with accrued interest thereon deposited by the appellant / M.S.R.T.C. in this Court on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court.
- (iii) The civil application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE

S.P Rane