

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

927 CIVIL APPLICATION NO.7121 OF 2022
IN FA/367/2022

RADHA W/O SACHIN TAMBE AND OTHERS

VERSUS

M.S.R.T.C., THR ITS DIV. CONTROLLER, DIV. OFFICE, BEED AND ORS

...

Advocate for Applicants : Mr. Sachin S. Deshmukh.

Advocate for Respondent No.1: Mr. Manoj Shinde.

...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 05th May, 2022.

P.C.:

. It is an application for withdrawal of compensation amount moved by the applicants/claimants.

2 Heard Mr. Deshmukh, learned counsel for the applicants/claimants and Mr. Manoj Shinde, learned counsel for respondent/MSRTC. Perused the impugned judgment and award passed in MACP No.74 of 2017.

3 It is revealed during course of argument that a practicing lawyer at young age met with motor vehicle accident and succumbed to the injuries. It was untimely death. The Tribunal after considering the facts of the case and evidence on record and considering the arguments advanced on behalf of both the sides was pleased to determine the compensation on account of death of a practicing lawyer

at Rs.68,20,000/-. Feeling aggrieved thereby, the MSRTC has challenged the impugned judgment and award mainly on three grounds. One, the defence of contributory negligence is not considered by the Tribunal in proper perspective, second, deceased was not wearing helmet at the time of accident and third, income tax return came to be filed by the widow of the deceased (claimant No.1) after the death. By taking help of above three defences, Mr. Shinde, learned counsel strongly opposed to allow this application for withdrawal of compensation.

4 Having considered the submissions of the learned counsel for both the sides and looking to the fact that family of the claimants has lost sole earning member of the family at young age, it is necessary to give some solace by allowing the claimants to withdraw atleast 50% of the amount of compensation with accrued interest thereon. The interest of the MSRTC can be taken care of by retaining 50% of the amount of compensation, which would meet the ends of justice. Hence, the following order is passed:

ORDER

- I. The application is hereby allowed as under:
- II. The applicants/claimants are hereby permitted to

withdraw 50% of the amount of compensation with accrued interest thereon on furnishing usual undertaking with the Registrar (Judicial) of this Court.

III. Remaining 50% of the compensation amount with accrued interest thereon shall be invested in fixed deposit account in any Nationalized Bank initially for a period of one year with renewal clause.

IV. The application is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]

nga