

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

29 CIVIL APPLICATION NO.11701 OF 2022
IN FA/287/2022

DHEERAJ DAYANAND MUTHAL AND ORS
VERSUS
THE DIV. CONTROLLER, M.S.R.T.C., OSMANABAD AND OTHERS

...
Advocate for Applicants : Mr. Ingale Vivekanand V.
Advocate for Respondent No.1 : Mr. A.D. Wange
....

**CORAM : S. G. DIGE, J.
DATE : 17.08.2022**

PER COURT :-

Heard learned counsel for the applicants and learned counsel for respondents.

2. Learned counsel for the applicants submits that respondent No.1 has challenged the order passed by learned Member, Motor Accident Claims Tribunal, Osmanabad and has deposited 50% amount out of award amount in this Court. Deceased was Karta of the family of the applicants. Applicant Nos. 1 and 2 are sons of deceased. Their mother and father both died in the accident. Applicant Nos. 3 and 4 are the parents of the deceased Dayanand. Applicants need the amount for their daily expenses and education. The applicants therefore, requested to allow the application.

3. Learned counsel for respondent No.1 submits that the driver of the ST Bus was not responsible for the said accident. The said accident occurred due to negligence of the container who had tried to overtake the bus and accident occurred. This fact is not considered by the Tribunal. Hence respondent No.1 has challenged the impugned order. If this Court permits the applicants to withdraw the amount and respondent no.1 succeeds in the appeal, it would be difficult for respondent No.1 to recover the amount. Hence, learned counsel requested to dismiss the application.

4. I have heard both the learned counsel.

5. The parents of the applicant Nos. 1 and 2 are died in the accident. Applicant Nos. 3 and 4 are the parents of the deceased. They have no source of income. They need the amount for daily expenses as well as for their education. The issue raised by the respondent No.1 can be considered at the time of final hearing of appeal. Hence I pass the following order.

ORDER

- (i) Application is allowed.
- (ii) Applicants are permitted to withdraw the entire award amount deposited by respondent No.1 along with accrued

interest thereon on furnishing undertaking.

Application is disposed of.

**(S.G. DIGE,)
JUDGE**

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