

Varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2429 OF 2022
IN
FIRST APPEAL NO. 1712 OF 2008**

Neha Pramod Vishwanath Kashalkar and othersApplicants
V/s.

Maharashtra State Road Transport CorporationRespondents
and others

Mr. Tejpal S. Ingale, Advocate for the Applicant.

Mr. G.S. Hegde, a/w Ms. P.M. Bhansali, Advocate for the Respondent No.1-
MSRTC.

Ms. Aishwarya Kondlekar, i/b Saumen Vidyarthi, Advocate for Respondent
No.6.

CORAM : GAURI GODSE, J.

DATE : 14th September, 2022.

P.C.

1. This application is filed by the widow and two daughters of the deceased, for withdrawal of amount of compensation which is granted by Motor Accident Claims Tribunal, Raigad at Alibag and is deposited in the Tribunal and is invested as per the Order passed by the Tribunal. The Applicants state that the deceased was the only earning member of the family and the Applicants were totally dependent on the income of the deceased.

Applicant Nos. 2 and 3 were minors at the time of accident and Applicant No.1 alone had to look after Applicant Nos. 2 and 3. Applicants state that out of the amount of compensation deposited, on earlier two occasions the Applicants were allowed to withdraw an amount of Rs. 5 lakhs and thereafter an amount of Rs 8 lakhs. The Applicants state that Applicant Nos. 2 and 3 are of marriageable age and they require some further amount for the purpose of their marriage as well as for livelihood and for medical aid of Applicant No.1. The Applicants state that they have also filed cross-objections for enhancement of compensation amount.

2. Learned Advocate for the Appellant objects for grant of withdrawal of the amount on the ground that some amount is already withdrawn by the Appellant and that if further amount is allowed to be withdrawn there will be great loss of the Appellant as the Appellant is a public authority and there will be burden on public exchequer. She further submits that the Appellant is ready to argue the Appeal for final hearing and instead of permitting the Applicants to withdraw amount, the Appeal may itself be decided finally. Perusal of the record shows that inspite of Order dated 15th January 2010, directing the Appellant to file private paper-book within six months from the

date of order, till date private paper-book is not been filed. I do not find that Appellant is serious about the submission showing willingness to argue the Appeal finally. I do not find merits in the objections raised by the Appellant.

3. Learned Advocate for the Applicants have submitted a chart thereby stating that as on December 2020, following amounts were lying to the credit of the Applicants.

Claimant No.1 Widow	Rs. 10,44,000/-
Claimant No.2 Daugher Rucha	Rs. 17,90,000/-
Claimant No.3 Daugher Prachi	Rs. 14,32,000/-
Total	Rs. 42,66,000/-

4. As per the chart, the total amount of Rs. 42,66,000/- is lying to the credit of the Applicants which amount includes the accrued interest as on December 2020. By the impugned Judgment and Order an amount of Rs. 22,50,000/- was awarded with interest at the rate of 7.5% per annum from the date of registration of Petition till realization of the amount.

5. I have perused the impugned Judgment and Order as well as the reasons given in the present Application. Considering the facts and circumstances of the case and in the interest of justice, I find it appropriate to allow the

Applicants to withdraw some further amount.

6. Since the learned Advocate for the Appellant have shown strong willingness to argue the Appeal for final hearing, it is necessary to direct the Appellant to file private paper-book within a stipulated time and take steps to get the Appeal ready for final hearing.

7. Learned Advocate for the Applicants state that he has already prepared private paper-book and he will file the same within a period of two weeks from today.

8. Hence, following order is passed:-

i) Applicants are allowed to withdraw 50% amount from the total amount (including accrued interest) lying to their respective credits by furnishing an undertaking that the amounts will be brought back in the event First Appeal is allowed.

ii) Applicants are permitted to file private paper-book within a period of two weeks from today.

iii) Appellant to take necessary steps to get the First Appeal ready for final hearing.

(iv) Liberty to apply for listing the First Appeal for final hearing,

once it is ready for final hearing.

7. Application is disposed of in the above terms.

[GAURI GODSE, J.]