

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

INTERIM APPLICATION NO. 17447 OF 2022

IN

FIRST APPEAL (ST) NO. 14753 OF 2019

Rani Santosh Kokate and Ors.

...Applicants

Versus

Maharashtra State Road Transport
Corporation.

...Respondent

Mr. Prashant Subhash Hagare, Advocate for applicants.
Mr. Dhananjay. D. Rananaware alongwith
Mr. Manjeet Lotankar Advocate for respondent.

CORAM : S. G. DIGE, J.

DATE : 9th DECEMBER, 2022.

P.C. :

1. Heard learned counsel for the applicant and learned counsel for the respondent. Learned counsel for the applicant submits that deceased was Karta of applicant's family. Applicant No. 1 is widow of deceased whereas the applicant Nos. 2 and 3 are

children of the deceased. Applicants have no source of income. Since death of applicant, applicant's family facing starvation. Applicants need amount for education of the applicant Nos. 2 and 3. But due to paucity of fund, applicant could not deposit education fees of applicant Nos. 2 and 3. The accident is occurred in the year 2015. Since then applicants have not received any compensation amount. Hence, requested to allow the application.

2. Learned counsel for the respondent strongly objected to allow the application on the ground that the Tribunal has not considered issues raised by the respondent regarding contributory negligence of deceased as well as Tribunal has awarded compensation on higher side. If respondent succeeds in the appeal, it would be difficult for the respondent to recover the amount from applicants. Hence, requested to dismiss the application.

3. I have heard both learned counsel. Admittedly, accident is occurred in the year 2015. Deceased was the Karta of applicant's family. Applicants have no source of income. Money is required for education of applicant Nos. 2 and 3 and for daily expenditure. The issue raised by the respondent can be considered at the time of final hearing. In view of above, I pass following order.

ORDER

1. Application is allowed.
2. Applicants are permitted to withdraw 70% amount alongwith accrued interest thereon out of deposited amount by furnishing undertaking.
3. Application is disposed of.

(S. G. DIGE, J.)