

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CIVIL APPLICATION NO.8887 OF 2023
IN FAST/29231/2022**

**MADHAVI SANTOSH NAGARGOJE AND ORS
VERSUS
DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD
TRANSPORT CORPORATION THR. ITS DEPOT CONTROLLER
AND ORS**

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Mr. Sushant B. Choudhari, Advocate for the Applicants.

Mr. A. D. Wange, Advocate for Respondent No.1.

Mr. A. S. Usmanpurkar, Advocate for Respondent No.3.

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CORAM : S. G. CHAPALGAONKAR, J.

DATE : 04th AUGUST, 2023.

PER COURT:-

1. By this application, the applicants seek permission to withdraw the amount deposited by the appellants-MSRTC.

2. The contention of the applicants is that the deceased was passenger in the bus, which was dashed by the Truck and on account of that injury suffered in the accident, the deceased lost his life. The applicants/original claimants were dependents on his income. After death, they are unable to maintain themselves and seek permission to withdraw the amount deposited by the appellants.

3. The learned Advocate appearing for the respondents/original appellants-MSRTC submits that there is ample evidence to show that the Truck driver was responsible for accident, however, Tribunal recorded findings of sole negligence

against driver of MSRTC. By assailing the said findings, appeal has been filed. He admits that there is no dispute as regards to the assessment of compensation.

4. Apparently, this is a case of composite negligence. The liability *inter se* between the MSRTC and owner and insurer of the Truck can be finally adjudicated in the appeal. However, there is no reason to withhold the amount of compensation, particularly when there is dispute as regards to the assessment. In that view of the matter, following order is passed:-

ORDER

- a. Civil Application is allowed.
- b. The applicants are permitted to withdraw entire amount deposited by the appellants.
- c. Civil Application is disposed of.

(S. G. CHAPALGAONKAR)
JUDGE