

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17620 OF 2023

IN

FIRST APPEAL (ST) NO. 15435 OF 2022

Shama Azim Mirkar and Ors.

... Applicants

In the matter between:

Maharashtra State Road Transport Corporation

.... Appellant

Versus

Shama Azim Mirkar and Ors.

.... Respondents

.....

Mr. Sandeep Shinde i/b. Ergo Juris, Advocate for Applicants.

Mr. D.D.Rananaware for the Appellant.

.....

CORAM : SHIVKUMAR DIGE, J.

DATE : 6th DECEMBER, 2023**P.C. :**

1. It is the contention of learned counsel for the applicants that deceased was the sole earning member of the family. Applicants have no source of income. They need amount for marriage of applicant No.2. Hence requested to allow the application.

2. Learned counsel for respondent -Corporation objected to allow the application on the ground that the rider of motorcycle on which deceased was pillion rider had tried to overtake the offending bus and in that attempt he fell down and got died. There was no negligence on the

part of driver of offending bus. Learned counsel further submitted that the income of deceased is considered on higher side, hence requested to reject the application.

3. I have heard both the learned counsel. The deceased was the sole earning member of the applicant's family. Applicants have no source of income. There is marriage of applicant No.2. They required amount for it. The issue raised by learned counsel for the respondent-Insurance Company can be considered at the time of final hearing of the appeal. Considering this fact, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicants are permitted to withdraw Rs.30,00,000/- (Rs. Thirty Lakh only) out of deposited amount along with accrued interest thereon on furnishing usual undertaking.

4. Interim Application is disposed off.

(SHIVKUMAR DIGE, J.)

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