



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

935 CIVIL APPLICATION NO.1249 OF 2024
IN FA/2637/2013

1. Smt. Sushila w/o. Shrimant @ Hanumant Phad,
Age : 50 years, Occu : Household,
2. Sanket s/o. Shrimant @ Hanumant Phad
Age : 30 years, Occu : Education,
3. Suchita d/o. Shrimant @ Hanumant Phad,
Age : 33 years, Occu : Education,
4. Mandubai w/o. Acchyutrao Phad
Age : 83 years, Occu : Household,
5. Acchyut Namdeo Phad (Died)
Through his Legal Heirs,
Applicants No. 1 to 4 already on record,
All R/o. Dound-wadi, Tq. Parli Vaijinath,
Dist. Beed

.. Applicants

Versus

The Divisional Controller
NEKSRTC, Bidar, Dist. Bidar
(Karnataka State)

..Respondent

.....

Advocate for Applicants : Shri. Balbhim R. Kedar

Advocate for Respondent : Shri. P. V. Gole h/f. Shri. V. D. Gunale

...

**CORAM : R. G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

Dated : February 27, 2024

PER COURT :-

. This Application has been moved with the following prayer:

“B] The clause iii) of the operative part of the Judgment
and award dated 7th December, 2023 apportioning amount of
Rs.7,50,000/- in favour of the applicant 5, in First Appeal

No.2637/2013 may kindly be changed/modified and the said amount be apportioned amongst the Applicants Nos.1 to 4, being his only surviving legal heirs and being only dependents of the deceased victim and necessary entry to that effect may be taken in record.”

2. The applicants had filed Motor Accident Claim Petition No.38/2008 before the Motor Accident Claims Tribunal, Ambajogai, Dist. Beed (hereinafter, for short, ‘Tribunal’) for compensation on account of the death of husband of Applicant No.1 by name Shrimant @ Hanumant Acchyut Phad. The Tribunal allowed the petition. The Respondent – NEKSRTC preferred the Appeal taking exception to the award and at the same time, claimants also preferred the Appeal seeking enhancement in the compensation amount. Both the Appeals were decided by this Court by the common Judgment and order dated 07.12.2023.

3. The Death Certificate of Acchyut Namdeo Phad (Original Claimant No.5) has been placed on record which indicates that he died on 08.08.2023 i.e. prior to four months of the decision of the appeals. It is informed that the Original Claimants could not bring to the notice of this Court the death of Acchyut before deciding the

appeals and therefore, the amount payable to him under the Award impugned in those Appeals has been made payable to the deceased himself.

4. Applicants No.1 to 4 are the Class-I heirs of deceased Acchyut. Applicant No.4 is his widow, while Applicant no.1 is his daughter-in-law (wife of deceased son of deceased Acchyut) and Applicants No.2 and 3 are his grandson and granddaughter (son and daughter of deceased son of deceased Acchyut), respectively. It has been stated on affidavit that except Applicants No.1 to 4, there are no Class-I heirs to deceased Acchyut, to whom a sum of Rs.7,50,000/- (Rs. Seven Lakh Fifty Thousand only) was payable pursuant to the directions regarding apportionment of the amount of compensation.

5. The Respondent / NEKSRTC has no objection to allow this Application.

6. In view of the above, the Civil Application is allowed in terms of prayer clause 'B'.

(NEERAJ P. DHOTE, J.)

(R. G. AVACHAT, J.)

GGP