



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 13807 OF 2023
IN FA/2904/2023

Kamal Kalyan Sarode And Ors

....Applicants

VERSUS

Divisional Controller Maharashtra State Road Transport Corporation
Through Its Depot Controller

.....Respondent

....

Advocate for Applicant : Mr. Tungar Nikhilesh K.

Advocate for Respondents : Mr. A.V. Rotte

....

CORAM : S. G. MEHARE, J.

DATE : 19.01.2024

PER COURT :

1. Heard the learned counsel for the applicants and the learned counsel for the respondent/appellant.
2. The appellant has impugned the award on the ground that the applicant No.2 is major brother and applicant No.3 is a married sister of the deceased. Therefore, the multiplicand should not be 1/3, but it would be 1/2. They were not dependents on the deceased. Only the mother was entitled to claim the compensation. However, the Tribunal has committed error of law and mistakenly applied the incorrect multiplicand. Therefore, the amount of compensation has

been exceeded. She also submitted that applicant No.3, was sister of the deceased has suggested in the cross-examination that she is residing with her husband. In such circumstances, the applicants are not entitled to withdraw the entire amount.

3. The learned counsel for the applicants would submit that the claimant Nos.2 and 3 were the dependents. One of them was the major brother. Considering the definition of 'dependent' for the purpose of compensation under the Motor Vehicle Act unless the siblings are dependents they are not entitled to the compensation. The married sister is also not held to be a dependent, unless dependency is proved. There appears substance in the submissions of learned counsel for the appellant. Hence, the following order is passed :-

ORDER

- (i) The application is partly allowed.
- (ii) The applicant No.1 is allowed to withdraw Rs. 8,00,000/- (Rupees Eight Lakh) with proportionate interest on the undertaking that she would deposit the money if the award is reversed.

(S. G. MEHARE)
JUDGE

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