



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

CIVIL APPLICATION NO. 607 OF 2024 IN FA/753/2023

SHIVKANYA RAMESHWAR SURWASE AND OTHERS
VERSUS
MAHARASHTRA STATE ROAD TRANSPORT CO., THROUGH ITS
DIVISIONAL CONTROLLER, BEED

...
Advocate for Applicants : Mr. Ruchir S. Wani
Advocate for Respondent/MSRTC : Mr. A. B. Dhongade
...

CORAM : S. G. MEHARE, J.

DATE : 15-03-2024

PER COURT :-

1. Heard the learned counsel for the applicant and the learned counsel for respondent/Corporation.
2. The appellant has a case of contributory negligence of the deceased. Learned counsel for the appellant submits that the entire amount deposited with this Court, may not be allowed to withdraw.
3. Learned counsel for the applicants submits that the amount of compensation of Rs.13,55,200/- has been granted. The applicants are the wife, two minor children and father of the deceased. Hence, the entire amount may be allowed to withdraw.
4. Perused the impugned judgment and award.

5. The appellant has raised the ground of contributory negligence of the deceased. Learned Tribunal also neglected the evidence of bus-conductor. Now-a-days, the conductor sits on front side besides the driver. His evidence needs to be appreciated. The appellant appears to have good grounds to argue in appeal. However, in view of the matter, the following order is passed;

ORDER

- i) The application is partly allowed.
- ii) The applicants are permitted to withdraw 80% of the amount deposited with this Court with accrued interest, on furnishing undertaking that they would deposit the amount, if the impugned judgment and award is reversed.
- iii) The amount allowed to be withdrawn be apportioned equally. However, the share of applicant No.2/minor daughter should be invested in fixed deposit in a Nationalized Bank of the choice of her guardian mother/applicant No.1 till she attains majority, with rights to receive accrued interest at quarterly rests. Applicant No.1/mother should furnish undertaking as above for and on behalf minor daughter.

**(S. G. MEHARE)
JUDGE**

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