

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.206 OF 2020

**Secretary, Maharashtra State Road Transport }
Corporation, Mumbai }
Thr. Its Divisional Controller, Satara Division, }
Satara, Maharashtra }** **....Appellant**

Versus

**1. Rajendra Gulab Mane }
Age-51 years, Occ.Well to do }**
**2. Sangita Rajendra Mane }
Age-45 years, Occ : Household }**
**3. Sandip Rajendra Mane }
Age-25 years, Occ : Education, }**
All R/at Padegaon, Taulka-Khandala, Dist : }
Satara }
**4. Dattatraya Shankar Sonawane }
Age-46 years, Occ : Driver, MSRTC., }**
R/o. Sohale, Taluka-Mohol, District-Solapur } **....Respondents**

....

Mr.N.V. Bhutekar, for the Appellant.
Mr.Pritesh K. Bhoade, for the Respondents.

....

CORAM : SHIVKUMAR DIGE, J.

DATE : 26th FEBRUARY, 2024.

ORAL JUDGMENT :

. The issue involved in the Appeal is conversion of Claim

Petition filed under Section 166 of the Motor Vehicle Act ('M.V. Act' for short) to under Section 163A of the M.V. Act.

2. It is contention of the learned counsel for the Appellant-Corporation that, initially the Claimant's had filed Claim Petition under Section 166 of the M.V. Act. Thereafter, during pendency of the said Application it was converted into 163A of the M.V. Act., which is erroneous. The learned counsel further submitted that the accident occurred due to sole negligence of the deceased, but this fact is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Claimant that, during pendency of the Claim Petition under Section 166 of the M.V. Act, the Application was filed by the Claimant's for conversion of the said Petition under Section 163A of the M.V. Act. The said Application was allowed and thereafter Claim Petition has been decided. The learned counsel further submitted that, the Order passed by the Tribunal for conversion under Section 166 of the M.V. Act to 163 of the M.V. Act has not been challenged by the Appellant. The learned counsel further submitted that, as Claim Petition was under Section 163 of the M.V. Act, issue of negligence does not arise.

Hence, requested to dismiss the Appeal.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Satara.

5. While passing the order in paragraph No.4 of the judgment the Tribunal has observed that, the Claimant's have filed Application at Exhibit-37 and requested to convert the Petition under Section 166 of the M.V. Act to under Section 163A of the M.V. Act. The Tribunal has allowed the Application and permitted to convert the Petition under Section 163-A of the M.V. Act. The Opponent i.e. Appellant-Insurance Company has not objected for it.

6. In my view, for the conversion of the Petition no objection was given by the counsel for Appellant-Corporation. Hence, in this Appeal the same issue cannot be raised.

7. In view of above, I pass following order.

ORDER

(i) The Appeal is dismissed. No order as to costs.

(ii) The Claimants are permitted to withdraw deposited amount along with accrued interest.

(iii) The Statutory amount along with accrued interest be transferred to the Tribunal. The parties are at liberty to withdraw it.

(v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)