2025:BHC-AUG:2493



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

**45 CIVIL APPLICATION NO. 1118 OF 2025**
**IN FAST/29214/2024 (withdrawal of amount)**

Bhausaheb Rambhau Ghodke And Anr
*VERSUS*
Maharashtra State Road Transport Corporation Through Divisional Controller And Anr
...
Advocate for Applicant : Mr. A.R. Kawde a/w Ms.M.A.Bhosle
Advocate for Respondents : Mr. Dnyaneshwar Suresh Bagul
...

**WITH**
**CIVIL APPLICATION NO. 12044 OF 2024 IN FAST/29214/2024 (delay)**
Maharashtra State Road Transport Corporation Through Divisional Controller
versus
Bhausaheb Rambhau Ghodke And Anr
...
Mr. D.S Bagul advocate for applicant
...

**WITH**
**CIVIL APPLICATION NO. 12045 OF 2024 IN FAST/29214/2024**
(stay)

**CORAM : S. G. CHAPALGAONKAR, J.**
**Dated : January 28, 2025**

**ORDER :-**

**on CA for withdrawal of the amount :-**

1. Heard learned advocates appearing for the respective parties.

2. The claimants contend that on 21.5.2019 while Sangita was traveling as pillion rider on motorcycle, S.T. Bus dashed motorcycle. Consequently, Sangita suffered fatal injuries.

3. M.S.R.T.C. refuted the claim on the ground that accident occurred due to negligence on the part of motorcycle rider and there was no fault of S.T. driver.

4. Tribunal, after evolution of the evidence, concluded that S.T. driver was sole responsible for the accident. Tribunal has also assessed earning of the deceased @ Rs.3,49,607/- p.a. on the basis of income tax return and passed award of Rs.45,05,000/- alongwtih the interest @ 6% p.a. from the date of the application. Aggrieved M.S.R.T.C. filed present appeal assailing the award on the basis of same contentions that accident occurred due to fault of the motorcycle rider. Even, the quantum of compensation is assailed.

5. Having considered submissions advanced and reasons as given in the impugned order, there is no dispute as to the accidental death of Sangita. Since, she was a pillion rider on the motorcycle, issue of contributory negligence does not germane to the proceeding. Assessment of the compensation is based on the income tax returns.

6. In that view of the matter, there is hardly any scope in the appeal. However, keeping in mind pendency of the appeal, claimants are permitted to withdraw 70% of the compensation amount deposited by the appellant in this appeal on furnishing usual undertaking to the satisfaction of the Registrar (Judicial) of this Court. Rest of the amount be kept in the fixed deposit in any nationalized Bank. CA stands disposed off.

**Delay Application :-**

7. Heard learned advocates appearing for the respective parties.

8. The applicant seeks to condone the delay of 189 days caused in filing the appeal.

9. Learned advocates appearing for the respondent nos.1 and 2 opposed the prayers.

10. Respondent no.3 though served, failed to cause appearance.

11. It appears from averments of the application that delay is caused on account of administrative reasons. Averments are not controverted by filing reply. Hence, the case is made out to condone the delay. Consequently, application is allowed. Delay of 189 days caused in filing the appeal is condoned.

12. Appeal be registered. On registration of the appeal, issue notice to the respondents, returnable on 11.3.2025. Learned counsel waives notice for respondent nos.1 and 2. Call for Record and proceedings.

13. Parties are put to the notice that appeal may be heard finally at the stage of admission.

**Stay application :-**

14. Learned advocate appearing for the applicant submits that entire amount as per the award passed by the Tribunal is

deposited with the Registry of this Court. Office endorsement also supports such contention.

15. In that view of the matter, application is allowed in terms of prayer clause ‘C’ and disposed off.

**( S. G. CHAPALGAONKAR, J. )**

**...**

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