



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

44 CIVIL APPLICATION NO. 3295 OF 2025
IN FA/366/2024

WITH
CIVIL APPLICATION NO. 1202 OF 2024 IN FA/366/2024

GAYA VIJAY TONPE AND ORS
VERSUS
THE MAHARASHTRA STATE ROAD TRANSPORT CORPORATION THROUGH
DIVISIONAL CONTROLLER

...
Advocate for Applicants : Mr. Amol Subhash Gandhi
Advocate for Respondent : Mr. D.S.Bagul
...

CORAM : S. G. CHAPALGAONKAR, J.
Dated : 28.03.2025

PER COURT :-

ORDER IN WITHDRAWAL APPLICATION :

1. Heard Mr. Gandhi, learned Advocate appearing for applicants and Mr. Bagul, learned Advocate appearing for respondent.
2. Applicants seek permission to withdraw amount deposited by respondent MSRTC in pursuance to award dated 26.09.2023 passed by Motor Accident Claims Tribunal Beed in MACP No. 266 of 2020. Applicants/Original Claimants instituted MACP No. 266 of 2020 for compensation towards accidental death of late Vijay Gorakh Tonp. It is contention of Claimants that on 07.12.2019 deceased was driving Ape Rickshaw which was dashed to Bus of MSRTC, consequently deceased suffered fatal injuries and succumbed to injuries on 09.12.2019.
3. Respondent MSRTC contested claim by attributing contributory negligence against deceased rickshaw driver so also contested claim on quantum.
4. Learned Tribunal after evaluation of evidence partly allowed claim and awarded compensation of Rs. 20.53,420/- in favour of claimants.
5. Respondent MSRTC filed present appeal carrying forward defence of contributory negligence of deceased.

6. Mr. Bagul, learned Advocate submits that Tribunal assessed excessive compensation and also wrongly decided issue of contributory negligence.

7. Having considered submissions advanced and reasons as stated in the impugned judgment and award, dispute in present appeal is on limited ground, therefore, Claimants are certainly entitled for partial withdrawal of amount. In result, following order :

ORDER

- (i) application is partly allowed.
- (ii) Applicants/Claimants are permitted to withdraw 60% of compensation amount as deposited by respondent/ MSRTC, on furnishing usual undertaking to the satisfaction of Registrar, (Judicial) of this Court that they shall re-deposit amount in case an adverse order is passed against them in appeal.
- (iii) Disbursement of amount shall be in terms of apportionment made as per award passed by Tribunal.
- (iv) An undertaking to be filed with Registrar (Judicial) of this Court within period of eight weeks from today.
- (v) Civil Application stands disposed off.

ORDER ON STAY APPLICATION :

8. Mr. Bagul, learned Advocate appearing for applicant submits that entire amount is deposited with the registry of this Court as per award passed by Tribunal. His statement is supported by office endorsement. Hence application stands allowed in terms of prayer Clause (C) and is disposed off.

ORDER IN APPEAL :

- 9. Heard.
- 10. **Admit.**
- 11. Print and paper book dispensed with.
- 12. Parties are at liberty to move this Court for early hearing.

(S. G. CHAPALGAONKAR)