



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

**CIVIL APPLICATION NO.10477 OF 2025
IN FIRST APPEAL STAMP NO.10573/2025**

Seema Machindra Talare and ors.

VS.

Maharashtra State Road Transport Corporation

Mr.A.D.Sonar, Advocate for applicants - claimants

Mr.D.S.Bagul, Advocate for respondent no.1

Mr.Sk. Kayyum Najir, Advocate for respondent no.2

AND

**CIVIL APPLICATION NO.4180 OF 2025
IN FIRST APPEAL STAMP NO.10573/2025**

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 25, 2025

ORDER :-

Feeling aggrieved by the judgment and award dated 07.08.2024, passed by learned Member, M.A.C.T., Dhule, in M.A.C.P. No.359/2022, the Maharashtra State Road Transport Corporation (MSRTC) has preferred First Appeal. While securing stay to the execution and operation of the impugned judgment and award, the appellant has deposited the entire payable award amount together with interest thereon in this court. On this background, the claimants have moved this application, seeking permission to withdraw the deposited amount.

2. Learned counsel for the claimants submits that they lost their son, sole bread-winner in the family, at his age of 36 years. The applicants submit that their entitlement for grant of compensation has been assessed by learned the Tribunal after examining the evidence on record as well as the defence raise by MSRTC. The applicants - claimants are in dire need of money and hence, it is prayed that they be permitted to withdraw the entire amount deposited in this Court.

3. Learned counsel for the respondent- M.S.R.T.C. would submit that learned Tribunal has committed error on two points: firstly, non-consideration of negligence on the part of deceased himself; and secondly, the income of the deceased. He would submit that it has come on record that the deceased was driving his bike in zig-zag manner, without wearing helmet. The deceased ought to have been held liable to contribute for the accident. He would submit that although there was no income proof of the deceased on record, learned Tribunal passed the award, holding the notional income of the deceased on higher side, i.e. Rs.9,000/- p.m. There was no age proof and it was the post mortem report that was considered by learned Tribunal. According to him, reliance on the post mortem report in such cases, in exception to the settled

multiplier, would result into the unnecessary burden on the public body, like M.S.R.T.C. With this, he opposes the application.

4. Upon hearing both sides, I am of the view that the entitlement of the applicants as regards quantum of compensation, has been considered by learned Tribunal after assessing the evidence on record before it. The appellant - M.S.R.T.C. has opportunity to prove its case on merits at the time of hearing of the appeal. At this, juncture, the applicants, who suffered loss of their sole bread-winner in the family, deserve some amount to be permitted to be withdrawn.

5. Hence, the following order:-

- (i) The application is partly allowed.
- (ii) Applicant no.1 is permitted to withdraw Rs.7 Lakhs together with interest accrued thereon, on furnishing undertaking to the satisfaction of learned Registrar (Judicial).
- (iii) Applicant no.4 is permitted to withdraw Rs.6 Lakhs, on furnishing undertaking to the satisfaction of learned Registrar (Judicial).
- (iv) Applicant no.1 shall be entitled to receive respective interest amount in view of clause (vi) of the operative part of the judgment and award.

(v) The amount of the share of applicant nos.2 and 3 (minor claimants) shall remain as it is, as directed by learned Tribunal, so also, the amount of Rs.3 Lakhs in the name of applicant no.1, shall remain intact as per the direction of learned Tribunal.

C.A. for Delay Condonation:-

6. This is an application for condonation of delay of 140 days in filing the First Appeal. Learned counsel for the applicant - appellant would submit that the delay has arisen out of the administrative exigency and not due to lethargy on the part of any authority of the appellant. He would submit that the appellant has deposited the entire payable award amount in this court, together with interest. As such, there is no prejudice to the interest of the claimants. With this, he prays for condonation of delay.

7. Learned counsel for the claimants, in all fairness, places his no-objection for condonation of the delay.

8. The Civil Application is allowed. Delay caused in filing the appeal is condoned.

9. The Registry to register the appeal, subject to removal of the office objections, if any, by the applicant/appellant. On registration, issue notice to the respondents, returnable after four weeks. Parties are put to notice that the appeal may be heard finally at admission stage, if time permits. Mr.A.D.Sonar, learned counsel for respondent nos.1 to 4 and Mr.Sk. Kayyum Nazir, learned counsel for respondent no.5, waive notice.

10. Call Record and Proceedings.

[AJIT B. KADETHANKAR, J.]

KBP