



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9046 OF 2022

Shri. Manik Laxman Nikam
Age – 58 years, Occupation – Service
R/o – Muktainagar, Ta. Muktainagar,
Dist. Jalgaon.

... PETITIONER

...VERSUS...

1. Smt. Sunidha Sheshrao Nikam
Age – 52 years, Occupation – Services
2. Shri. Vishal @ Sonu Sheshrao Nikam
Age – 23 years, Occupation – Services

Both R/o – C/o Indubai Zadu Medhe, Laxmi Nagar,
Khadaka Road, Near Water Tank, Nr. Asha Complex, Bhusawal,
Tal. Bhusawal, Dist. Jalgaon.

3. The Divisional Controller
The Maharashtra State Road Transport Corporation,
Jalgaon Division, New S. T. Stand, Jilha Peth
Tal. and Dist. Jalgaon.
4. Late Laxman Ramchandra Nikam Through LR.
4A. Late Madhukar Laxman Nikam Through LR.

4A.1 Mandakini Madhukar Nikam
Age - 37 Years, Occupation - Household

4A.2 Chetan Madhukar Nikam
Age - 17 Years, Occupation - Education

4A.3 Khushi Madhukar Nikam
Age - 15 Years, Occupation - Education

4A.4 Divesh Madhukar Nikam
Age - 10 Years, Occupation - Education

(Applicant no. 4A.1 is mother and natural
guardian of Applicant no. 4A.2 to 4A.4 being
her children as they are minor)
All R/o Z.T.C., Opposite Saibaba Mandir,
Fekri, Bhusawal, Tal. Bhusawal, Dist. Jalgaon

4B. Sau. Alka Gangaram Surwade
Age – 50 years, Occupation – Agricultural
R/o Sawale Nagar, Near Temple, Fekari,
Tal. Bhusawal, Dist. Jalgaon.

4C. Sau. Sangita Ashok Medhe
Age – 44 years, Occupation – Agriculture

... RESPONDENTS

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- Mr. Bhokarikar Madhav M., Advocate for the Petitioner
 - Mr. M. D. Shinde, Advocate for Respondent No. 3
 - Mr. R. M. Gaikwad and Mr. P. M. Gaikwad, Advocate for Respondent Nos. 1 and 2
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CORAM : ROHIT W. JOSHI, J.

DATE : JULY 24, 2025

ORAL JUDGMENT :

1. One Sheshrao died in a road accident. His widow and son who are respondent nos. 1 and 2 in the present petition filed a claim petition under Section 166 of the Maharashtra Vehicles Act, 1988 seeking compensation on account of accidental death of Sheshrao. Likewise, parents of deceased Sheshrao namely Laxman and Sumanbai filed a separate claim petition seeking compensation. Whereas the claim petition filed by respondent nos. 1 and 2 was dismissed in default, the claim petition filed by the parents was allowed. Application for restoration of the claim petition was also rejected by the learned Tribunal. Respondent Nos. 1 and 2 thereafter approached this Court by filing a writ petition challenging the order refusing to restore their claim petition. Likewise, they also filed a first appeal challenging the judgment

and award passed in the claim petition filed by parents of deceased Sheshrao. This First Appeal No. 417 of 2025 and Writ Petition No. 6251 of 2005 came to be decided by a common judgment dated 01.04.2014. This Court held that respondent nos. 1 and 2 will be entitled to receive compensation of Rs.1,00,000/- each, along with accrued interest and that the mother Sumanbai should get Rs. 45,100/- along with accrued interest. Claim of the father Laxman was dismissed.

2. However, before the adjudication of the petition and the appeal, the parents had withdrawn the amount of compensation awarded to them. In view of the aforesaid, the respondent nos. 1 and 2 filed execution petition bearing M.A.C.P Darkhast No. 7/2015, which is renumbered as 16/2021. The judgment debtor no. 1 - Laxman has expired during the pendency of the darkhast proceeding. Respondent Nos. 1 and 2 - decree holders filed application for bringing legal representatives of deceased Laxman on record. The name of present petitioner was brought on record as one of the legal representatives of deceased Laxman. Respondent Nos. 1 and 2 have filed an application vide 'Exhibit 40' *inter alia* praying for attachment of salary of the petitioner in the darkhast proceeding. Learned counsel for the petitioner contends that respondent nos. 1 and 2 - decree holders are seeking recovery amount only against the petitioner. The learned Executing Court has passed order dated 30.09.2019 issuing notice to the petitioner

on the application at 'Exhibit 40'. The claim petition is also amended in order to incorporate a prayer for attachment of salary of the present petitioner for recovery of the amount. In such circumstances, the petitioner has filed the present petition challenging the order dated 08.12.2015 passed below the amendment application at 'Exhibit 15' and order dated 30.09.2019 passed below 'Exhibit 40'. The learned Executing Court has not decided, whether the salary should be attached or not and whether any amount can be recovered by the respondent nos. 1 and 2 from the petitioner. Merely, amendment in order to incorporate prayer for attachment of salary is allowed and notice is issued on the application for attachment of salary. In such circumstances, it is open for the petitioner to oppose the application for attachment of salary and also to raise all defenses for available against recovery of amount from him before the learned Executing Court. The learned Executing Court has not passed any adverse order against the petitioner as yet.

3. In the result, the writ petition is **dismissed** for want of cause of action.
4. Pending civil applications, if any, stand **disposed of**.

[ROHIT W. JOSHI, J.]