



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

960 CIVIL APPLICATION NO. 10622 OF 2025
IN FAST/18770/2025

ALKA PRAKASH GADHAVE AND ORS

VERSUS

THE DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD TRANSPORT
CORPORATION LTD DIVISIONAL OFFICE

...

Ms. Tanishka Prasanna Chavan h/f. Mr. Prasanna Shankarrao Chavan,
Advocate for Applicants

Mr. Narayan Chavan h/f. Mr. D. S. Bagul, Advocate for Respondent

...

WITH

CIVIL APPLICATION NO. 7009 OF 2025
IN FAST/18770/2025

THE DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD TRANSPORT
CORPORATION

VERSUS

ALKA PRAKASH GADHAVE AND ORS

WITH

CIVIL APPLICATION NO. 7010 OF 2025
IN FAST/18770/2025

THE DIVISIONAL CONTROLLER MAHARASHTRA STATE ROAD TRANSPORT
CORPORATION

VERSUS

ALKA PRAKASH GADHAVE AND ORS

...

CORAM : AJIT B. KADETHANKAR, J.

DATE : 26.09.2025

PER COURT :-

CIVIL APPLICATION NO. 10622 OF 2025 IN FAST/18770/2025 (Withdrawal)

1. Feeling aggrieved by the judgment and award dated 16.11.2024, passed by the learned Member, Motor Accident Claims Tribunal, Dharashiv, in M.A.C.P. No.332 of 2022, the appellant has preferred this First Appeal. Pursuant to the stay granted by this Court, the appellant has deposited the entire award amount together with interest in this Court. Hence, the present civil application has been placed in service by Ms. Tanishka Chavan, learned counsel for the applicants, seeking withdrawal of the amount deposited by the appellant / MSRTC.

2. Ms. Chavan, in all fairness, submits that during the pendency of the trial itself, claimant No. 3 expired and this fact remains to be recorded. Accordingly, the present appeal is also filed, showing claimant No.3 as respondent No.3 in the matter. Ms. Chavan further submits that the deceased claimant No.3, namely Pushpabai Madanrao Gadhave, is survived by the other claimants (i.e. claimant Nos.1 and 2). Ms. Chavan further contends that the entitlement of the claimants was determined by the learned Tribunal after assessing the evidence on record and applying the facts of the case. In view of this, the applicants deserve withdrawal of the compensation granted by the learned Tribunal.

3. Mr. Narayan Chavan, learned counsel for respondent / MSRTC, vehemently opposes the application. He submits that the learned Tribunal committed an error both in determining negligence and in fixing quantum. He

further contends that the learned Tribunal ought to have apportioned negligence between the deceased and the ST driver. Mr. Chavan argues that the Tribunal failed to properly analyze the evidence. He also submits that the Tribunal erred in fixing the quantum by considering the gross salary of the deceased, without making appropriate deductions. With this, he prays for rejection of the application.

4. Having heard the parties at length, I find that today, the award stands in favour of the applicants. The entitlement of the applicants has been assessed by the learned Tribunal after assessing the evidence on record and by examining the facts of the case. The findings of the learned Tribunal as regards to negligence of the accident which in consonance with the police papers which were filed on record. So also, there is dispute as regards to the consideration of the income of the deceased. As the appellant/Insurance Company submits that the necessary deduction was not carried out by the Tribunal, the claimants would submit that a part of salary or the income of the deceased is not also considered by the learned Tribunal.

5. During the course of argument, it was pointed out and this Court notes that the Trial Court had stipulated that a portion of the award be deposited in fixed deposit. However, considering the ages of the claimants and their proposal to furnish a bank guarantee, in my considered view, the withdrawal if granted as follows, would be justifiable and the interest of the

appellant shall be protected by the bank guarantee offered by the applicants.

6. For the reasons recorded above, I pass the following order :-

ORDER

- a. Civil application is allowed.
- b. Applicants are permitted to withdraw Rs.25,00,000/- together with interest thereon by furnishing usual undertaking to the satisfaction of the learned Registrar (Judicial) of this Court. Applicants are also permitted to withdraw the balance amount by furnishing bank guarantee to the satisfaction of the learned Registrar (Judicial) of this Court.
- c. The amount falling to the share of claimant no.3 as per the impugned judgment and award shall be received by the present applicants equally as they represent the deceased claimant no.3 in the capacity of her legal representatives.

CIVIL APPLICATION NO. 7010 OF 2025 IN FAST/18770/2025 (Stay)

1. In view of the fact that the appellant/MSRTC has deposited entire award amount in this Court together with accrued interest thereon, stay granted earlier is made absolute.
2. Civil Application is allowed in terms of prayer clause "C".
3. Civil Application stands disposed of.

CIVIL APPLICATION NO. 7009 OF 2025 IN FAST/18770/2025 (Delay)

1. This Civil Application is for condonation of delay of 108 days in filing the First Appeal.
2. Mr. Chavan, learned counsel for MSRTC, submits that the delay is

neither inordinate nor caused by lethargy on the part of MSRTC. He also submits that the interests of the claimants are protected, since the entire award amount was deposited with interest. He argues that the appeal should be heard on its merits.

3. Ms. Tanishka Chavan, learned counsel for the claimants in all fairness places no objection.

4. In view of this, Civil Application is allowed.

5. Delay of 108 days, caused in filing the First appeal is hereby condoned.

6. Registry to register the First Appeal, subject to removal of office objections within four weeks from today.

FAST/18770/2025

1. Issue notice to the respondents.

2. Ms. Chavan, learned counsel waives service of notice for respondent nos.1 and 2.

3. Mr. Chavan, shall carry necessary amendment in the title clause of the First Appeal and applications therein, if any, within two weeks from today.

[AJIT B. KADETHANKAR, J.]