



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

CIVIL APPLICATION NO. 9868 OF 2025
IN FA/80/2025

Baban Kedarnath Dnyandeo Adhav And Ors
VERSUS
Maharashtra State Road Transport Corporation
Through Divisional Controller MSRTC And Anr

Mr.U.G.Mitkari, Advocate for applicants
Mr.Chavan, Advocate h/f. Mr.D.S.Bagul, Advocate for respondent no.1
Mr.V.B.Kulkarni, Advocate for respondent no.2

CORAM : AJIT B. KADETHANKAR, J.
DATE : SEPTEMBER 12, 2025

ORDER :-

As against the judgment and award dated 26.07.2024, delivered by learned Member, Motor Accident Claims Tribunal, Jalna, in MACP No.243/2022, the Maharashtra State Road Transport Corporation has lodged the appeal. While securing stay to the execution and operation of the impugned judgment and award, the entire award amount has been deposited in this court. The claimants, who happened to be the father and brother of the deceased, respectively, have filed present Civil Application for withdrawal of amount.

2. Learned counsel for respondent - MSRTC (Appellant) submits that the Tribunal has not considered the issue of negligence

properly. The Tribunal ought to have considered that the deceased has contributed the accident and the percentage of his contribution ought to have been held on higher side. With this, he opposes the application.

3. Having heard the parties, I find that today, the award stands in favour of the applicants/claimants. Their entitlement has been adjudicated by the learned Tribunal after examining the evidence on record. The deceased was a labourer. At least, applicant no.1 and the wife of deceased should have been said to be dependent on him. It is submitted that the appellant (MSRTC) has examined the driver of the bus. However, his evidence was found to be not that much useful to impose higher percentage of negligence on the part of the deceased.

4. Learned Counsel for the applicants submits that original claimant no.2 died during pendency the trial and the fact remains to be brought to the notice of the Tribunal due to lack of knowledge to inform such fact to their Advocate. He submits that the share pertaining to deceased claimant no.2 may be adjusted rationally to applicant no.1.

5. In view of the above, the appellant – MSRTC is permitted to delete name of respondent no.2 in the appeal, on submission of learned counsel for the applicants that applicant nos.1 and 3, i.e. present applicant nos.1 and 3 are only the legal representatives of deceased claimant no.2/applicant no.2

6. Hence, I pass the following order:-

(i) The application is partly allowed.

(ii). The applicants are permitted to withdraw 75% of the award amount, on furnishing undertaking to the satisfaction of learned Registrar (Judicial) of this Court.

[AJIT B. KADETHANKAR, J.]

KBP