

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.15387 OF 2024

IN

FIRST APPEAL NO.1334 OF 2024

1. Subhash Manikarao Chavan (Deceased)
2. Sou. Pramila Subhash Chavan
3. Ganesh Subhash Chavan ... Applicants
Versus
Divisional Controller
Maharashtra State Transport Corporation Ltd. ...Respondent

In the matter between :

Divisional Controller
Maharashtra State Transport Corporation Ltd. ... Appellant
Versus
1. Subhash Manikarao Chavan (Deceased)
2. Sou. Pramila Subhash Chavan
3. Ganesh Subhash Chavan ... Respondents

Ms. Chanchal Singh i/b R.V. Sankpal & Associates for Applicants.
Mr. D.D. Rananware for Respondent.

**CORAM : G.S. KULKARNI &
ADVAIT M. SETHNA, JJ.**

DATE : 25 MARCH 2025

P.C.:

1. This Interim Application in the captioned First Appeal is filed
for the following substantive reliefs :-

“a) That the Applicant No.2 be permitted to
withdraw 50% amount of Rs.60,56,113/- with
accrued interest deposited by the Appellant.

- b) That the Applicant No.3 be permitted to withdraw 50% amount of Rs.15,00,000/- with accrued interest deposited by the Appellant.
- c) The name of Applicant No.1 be deleted from the title and the Appellant be directed to carry out the amendments in the Appeal Memo.
- d) The hearing of the First Appeal No.1334 of 2024 be expedited.”

2. The applicants herein had preferred a claim application dated 18 August 2015 under Section 166 of the Motor Vehicles Act, 1988 before the Motor Accident Claims Tribunal, Satara (“**MACT**” for short), numbered as Motor Accident Claim Petition No.293 of 2015 (Exhibit No.90). The MACT for the reasons recorded in the said judgment/award, partly allowed the claim application of the applicants *inter alia* directing the respondent corporation/opponent to jointly and/or severally pay the amount of Rs.75,56,113 with interest @ 6 per cent per annum to the applicants.

3. Ms. Chanchal Singh, learned counsel appearing for the applicants at the very outset would submit that the respondent had deposited a sum of Rs.1,07,45,424/- by a demand draft dated 18 September 2024, with the Registry of this Court. She has further submitted that considering such deposit, judgment/award of MACT dated 14 August 2023, has been stayed by an order of this Court dated 23 July 2024.

4. Ms. Singh, learned counsel for the applicants would then state that the deceased, is the son of Applicant No.2 and brother of Applicant No.3 who died in a motor accident which took place on 2 August 2015. A claim application was then filed by the Applicants before the MACT under the provisions of the Motor Vehicles Act, 1988.

5. Ms. Singh would submit that by the present application, she is praying for withdrawal of the amount deposited by the respondent, which are set out in prayer clauses (a) and (b) (Supra), respectively. In support of such prayers, Ms. Singh would submit that judgment/award of the MACT is stayed by an order dated 23 July 2024. In view thereof, there would be no prejudice to the Respondent, if such relief is granted in favour of the applicants.

6. Ms. Singh would submit that Applicant No.1 is the father of the deceased and the husband of Applicant No.2. Applicant No.2 is stated to be housewife and Applicant No.3 is a farmer. As a family, the Applicants are beleaguered by debt on account of large amounts of money spent on the illness of Applicant No.1. Further, there were liabilities on the Applicants to be discharged by Applicant No.3, arising out of his farming activities. Thus, she would submit that Applicant Nos.2 and 3 are in dire need of finances, facing severe financial strain.

7. Mr. Rana Naware, learned counsel appearing for the Respondent corporation, would oppose the interim application. However, there is no opposition/affidavit-in-reply placed on record.

8. Ms. Singh, at this stage would pray that as the Applicant No.1 has passed away, during the pendency of these proceedings, his name be deleted from the appeal memo and she should be permitted to appropriately amend the appeal memo.

9. In our view, considering the above factual matrix and noting submissions of the learned counsel for the parties, the following order would meet the ends of justice.

: O R D E R :

a) The registry of this Court is directed to permit the Applicant No.2 to withdraw 50 per cent of Rs.60,56,113/- as deposited by the Respondent with accrued interest thereon.

b) The registry of this Court is further directed to permit Applicant No.3 to withdraw 50 per cent of the amount of Rs.15,00,000/- deposited by the Respondent with accrued interest thereon.

c) Such withdrawals shall be effected within a period of two weeks from the date of this order is made available.

d) The above withdrawals by Applicant Nos. 2 and 3 are subject to undertakings to be furnished by both the applicants with the registry of this Court, stating that in the event the respondent corporation succeeds in the appeal before this Court, the Applicants, respectively, shall bring back such amounts as withdrawn along with accrued interest thereon.

e) The applicants shall carry out necessary amendments to the cause title of the appeal memo by deleting the name of the deceased Subhash Manikao Chavan and serve amended copy of the appeal memo on the respondents forthwith.

e) In the peculiar facts and circumstances of the case and in the interest of the contesting parties, hearing of the First Appeal is expedited.

[ADVAIT M. SETHNA, J.]

[G.S. KULKARNI, J.]