



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

**CIVIL APPLICATION NO. 1159 OF 2025
IN FA/4214/2023**

Mrs Seema Gautam Kamble And Ors

VERSUS

M.S.R.T.C. Through Divisional Controller Division Office,
Nanded

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Mr. S. S. Gangakhedkar, Advocate for Applicants

Mr. D. S. Bagul, Advocate for Respondent-Sole

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CORAM : ROHIT W. JOSHI, J.

DATED : 28TH MARCH, 2025

PER COURT :-

. The original claim petitioners have filed the present application seeking permission to withdraw the amount deposited by the non applicant/appellant in First Appeal.

2. The amount is deposited by the non applicant/MSRTC in compliance of order dated 19.10.2023 passed by this Court granting ad-interim-stay to execution of the impugned judgment and award passed by the learned Claims Tribunal.

3. The learned Counsel for the non applicant/MSRTC strongly opposes the application. On the ground that the present case is of contributory negligence and therefore unless the appeal is finally decided, the applicant should not be

allowed to withdraw the amount.

4. Having heard the learned Advocates and on perusal of the judgment passed by the learned Tribunal, I am of the opinion that 50 percent of the amount deposited alongwith accrued interest can be allowed to be withdrawn. By adopting such a mode, the interest of the non applicant/MSRTC is duly taken care of.

5. The learned Counsel for the non applicant/MSRTC also informs that there is an inter se dispute between the dependents/legal representatives of deceased Gautam Kamble. He points out that the present applicant No.1 and one Aruna claim to be legally wedded wife of deceased Gautam Kamble. He has placed reliance on judgment of this Court in Civil Review Application No.53 of 2022 decided on 03rd October, 2023.

6. The said matter arises out of succession certificate proceeding filed by Aruna against the present applicants. It appears that Gautam has a daughter named Sneha from Aruna. Whereas Aruna claims to be legally wedded wife of deceased Gautam, the applicants dispute her status as wife. Mr. Gangakhedkar, learned Advocate appearing for the

applicants states that she is not even the second wife and solemnization of marriage itself is in dispute. Perusal of the judgment dated 03.10.2023 in Civil Revision Application No.53 of 2022 demonstrates that this Court has held that deceased Gautam is biological father of Sneha (daughter of Aruna). It is held that her right to inheritance cannot be determined in a succession case which is a proceeding of summary nature.

7. In the light of aforesaid, this Court was pleased to grant succession certificate in the said Civil Revision Application in favour of the present applicant to the extent of 5/6th share of the subject matter of dispute in the said case. Balance 1/6th share was kept aside which is to be disbursed subject to outcome of Civil Suit. Accordingly, liberty was granted by this Court to Aruna and Sneha to file appropriate civil suit. It is informed across the bar that a Civil Suit has been filed by Aruna and Sneha in view of the liberty granted vide judgment dated 03.10.2023.

8. In my considered opinion, even if Aruna is held to be legally wedded wife of deceased Gautam, entitlement of applicant Nos.2 to 5 cannot be disputed. In that view of the

matter, I am inclined to partly allow the present application in the following terms:

- i. The applicants are permitted to withdraw 1/3 amount deposited by the non applicant/MSRTC with this Court alongwith accrued interest, subject to furnishing usual undertaking. 1/3 amount alongwith accrued interest which is allowed to withdraw be remitted to the office of Motor Accident Claims Tribunal, Nanded. The applicants shall appear before the learned Tribunal in order to complete the formalities of withdrawal. The learned Tribunal is directed to disburse the amount alongwith accrued interest to the applicants in compliance of the order passed.

(ROHIT W. JOSHI, J.)