

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.389 OF 2023

WITH

FIRST APPEAL NO.388 OF 2023

WITH

FIRST APPEAL NO.390 OF 2023

AND

FIRST APPEAL NO.392 OF 2023

Maharashtra State Road Transport Corporation ...Appellant

Versus

Smt. Aruna Gangadhar Kute ...Respondent

Mr. Nitesh V. Bhutekar with Ms. Priyesh Patel, for the Appellant.
Ms. Rina Kundu, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 28th JANUARY, 2026.

PC:-

1. This appeals filed by Maharashtra State Road Transport Corporation (MSRTC) takes exception to the judgment and award dated 29th September, 2022 passed in MACP Nos.9 of 2019, 5 of 2019, 6 of 2019 and 8 of 2019 respectively, whereby death claim as well as injury claims filed by the Claimants, came to be allowed by directing Corporation to pay compensation.

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2. Since the present appeals arise out of the same accident, by consent of both sides, all appeals are heard and decided together.

3. There is no dispute made by the parties with regard to the fact that on 2nd February, 2018 at about 9.25 a.m. at Latifwadi village an accident occurred involving motor-car bearing No.MH-04-BY-4020 and State Transport Bus bearing registration No.MH-20-BL-2724. In the said accident, the driver as well as passengers of car sustained injuries and one of the passengers succumbed to the injuries. Offence came to be registered against driver of the S.T. Bus for rash and negligence driving of his vehicle. In this backdrop, MACP Nos.9 of 2019, 5 of 2019, 6 of 2019 and 8 of 2019 came to be filed for death and injury claim.

4. In MACP No.9 of 2019 (First Appeal No.389 of 2023) claim is filed seeking compensation for loss of dependency on account of the death of the deceased. First Appeal No.388 of 2023 is injury claim arising out of MACP No.5 of 2019. Similarly, injury claims were filed in MACP No.6 of 2019 (First Appeal No. 390 of 2023) and MACP No.8 of 2019 (First Appeal No. 392 of 2023).

5. Learned counsel for the MSRTC submits that the Tribunal has committed error in not considering the material evidence on record which indicates that the accident in question has occurred solely on account of the negligence on the part of the driver of the car. It is his submission that the spot panchanama clearly indicates that the driver of the car took sudden right turn and because of the same the accident occurred. It is his submission that the Tribunal ought to have held the driver of the car responsible for the

occurrence of the accident and hence MSRTC is not liable to pay compensation.

6. His contention is opposed by the learned counsel for the Claimants contending that the Claimants/deceased were occupiers of the car and were not driving the same. It is thus contended that it became immaterial to decide in the present appeals as to at this instance the accident had occurred.

7. It is argued on behalf of the Claimants that the driver of the car filed claim before the Tribunal which was allowed and the appeals filed against the same is withdrawn.

8. Learned counsel for the MSRTC submits that the First Appeal No.391 of 2023 came to be withdrawn only for the reason that the amount of compensation involved therein was negligible. It is his further submission that the order passed by this Court permitting withdrawal indicates that the disposal of the said Appeal would not affect merits of the present Appeals.

9. In so far as the issue of negligence or contributory negligence of the driver of the car does not become relevant in present Appeals in view of the fact that the injured or the deceased were not driving the said car. Since there were passengers, it is open for them to file a claim against both or any of the joint tort-feasors. In such circumstances, the Tribunal was not required to go into the issue about negligence and involvement of the State Transport Bus coupled with the fact that charge-sheet came to be filed against the driver of the bus was sufficient to allow the claim. Apart from this, this Court find substance in the contention of the

counsel for MSRTC and objections ought to be raised by the learned counsel for the Claimants stand rejected.

10. On quantum learned counsel for the MSRTC in First Appeal No.389 of 2023 submits that the Tribunal has committed error in not considering the age of the injured while determining the percentage of future prospects. It is his contention that the grant of future prospects at the rate of 15% is incorrect as the same not supported by the position of law. He, therefore, seeks of the impugned judgment and award. Similarly, it is the argument in respect of First Appeal No.388 of 2023, wherein according to him the future prospects are considered on higher side. It is his forth contention that the Tribunal has committed error in relying upon the income tax returns filed four years prior to the occurrence of the accident.

11. In First Appeals Nos.390 and 392 of 2023 he takes exception to the manner in which the computation is done by the Tribunal.

12. Learned counsel for the Claimants supported the impugned judgment and award.

13. Perusal of the evidence on record clearly indicates that the Tribunal in each case has gone through the evidence led by the Claimants before it and recorded findings with regard to the injuries and disabilities caused to the Claimants in the injury claim.

14. Having regard to the evidence on record and while determining injury claims, evidence of the expert is led and there was no reason for Tribunal not to accept determination of

disability assessed by them. The Tribunal, however, while granting future prospects ought to have considered the judgment in case of *National Insurance Company Limited Vs. Pranay Sethi and others reported in 2013 SCC Online Bom 1718* owing to the age of injured and deceased, the future prospects ought to have been considered to the extent of 10% instead 15%. Thus, the judgment and award passed challenging First Appeals Nos.389 and 388 of 2023 deserve partial interference.

15. As far as First Appeals Nos.390 and 392 of 2023 are concerned, evidence on record clearly shows that the findings rendered by the Tribunal on disability, so also the loss of income are in consonance with evidence on record and hence justified deserving no interference therein.

16. The Claimant therefore would be entitled to receive the following compensation in First Appeal No. 389 of 2023:-

Sr. No.	Particulars	Amount
1.	Hospitalization and Medical expenses	Rs.1,68,357/-
2.	Pain and sufferings	Rs.30,000/-
3.	Conveyance	Rs.5,000/-
4.	Special diet	Rs.10,000/-
5.	Nursing and personal attendance	Rs.10,000/-
6.	Loss of enjoyment and discomfort in life	Rs.50,000/-
7.	Permanent disability	Rs.30,000/-
8.	Loss of earnings	Rs.24,000/-
9.	Loss of future prospect	Rs.2,85,120/-
	Total	Rs.6,12,477/-

17. The Claimant therefore would be entitled to receive the following compensation in First Appeal No. 388 of 2023:-

Sr. No.	Particulars	Amount
1.	Dependency Rs.28,967 per months x 12 months x 9 factor	Rs.31,28,436/-
2.	Loss of consortium for 3 Applicants Rs. 40,000 each.	Rs.1,20,000/-
3.	Funeral expenses	Rs.15,000/-
4.	Loss of estate	Rs.15,000/-
	Total	Rs.32,78,436/-

18. In view of the above, First Appeals Nos.389 of 2023 and 388 of 2023 stand partly allowed and the following order is passed in First Appeals Nos.390 and 392 of 2023.

ORDER

- (i) First Appeals Nos. 390 and 392 of 2023 stand dismissed.
- (ii) The Claimants are permitted to withdraw the deposited amount alongwith accrued interest thereon.
- (iii) The statutory amount be transmitted to the Tribunal alongwith accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
- (iv) Record and proceedings be sent back to the Tribunal.

19. In view of the disposal of all the Appeals, Interim Applications, if any, also stand disposed of.

(R. M. JOSHI, J.)