

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

10 FIRST APPEAL NO. 1019 OF 2009
WITH CA/11352/2006 IN FA/1019/2009

MSRTC, DHULE

VERSUS

IRMA VITHALA VASAVE AND ORS

...

Advocate for Appellant : Mr. D S Bagul
Advocate for Respondents 1 to 4 : Mr. R. R. Mantri
Advocate for Respondent No.7 : Mr. s. V. Kulkarni

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th September, 2015

PER COURT :

1. Mr. Bagul, the learned counsel for the appellant submits that the Court has considered 50% negligence of drivers of each of vehicle. Driver of the bus was not at all negligent. If the spot panchanama is perused, the same would make the position clear.

2. Learned counsel submits that even the Court has not apportioned the amount properly amongst the two vehicle owners. The compensation amount awarded is also exorbitant.

3. I have heard learned counsel for the respective parties.

4. The deceased was a passenger in the Bus. Even if the negligence is 50:50, or the percentage of negligence of drivers of each of vehicle defers, that would not make any difference as far as the claimant is concerned. For the claimant, it would be a case of composite negligence and in such case, the claimant can recover the whole amount from any one. This being a position, the contention of the appellant cannot be considered.

5. As far as the quantum of compensation is concerned, towards non pecuniary damages, the Court has awarded paltry sum.

6. Considering the above, the first appeals are dismissed. Civil application also stands disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC