

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO.1570/2015

Principal, Dairy Management &
Animal Husbandary School,
Pingali, Tq. and Dist. Parbhani. = **APPELLANT**

VERSUS

1) Anuradha w/o Vilas Pole
and Ors. = **RESPONDENTS**

Mr.KD Jadhav, Advocate for Appellant;
Mr.Sachin Deshmukh, Adv. for Respondent Nos. 1 to 3.

CORAM : P.R.BORA, J.

DATE : 11th April, 2016.

COURT'S ORDER:

1) Heard. By consent, taken up for final disposal.

2) Respondent No.1 in MACP No.36/2009 decided on 18th January, 2014 by Motor Accident Claims Tribunal, Parbhani (for short, the Tribunal) has filed the present appeal taking exception to the judgment and award passed therein.

3) Respondent Nos.1 to 3 herein had filed the aforesaid claim petition seeking compensation on account of death of one Vilas Sheshrao Pole, who died in a vehicular accident happened on 22.09.2008, having involvement of a school bus bearing registration No.MCU-9840 owned by the present appellants. It was the contention of the claimants before the Tribunal that deceased Vilas was dashed by the school bus owned by the present appellants and in that accident, he suffered severe injuries and ultimately succumbed to the said injuries.

4) The aforesaid Claim Petition was resisted by the present appellant. It was the contention of the appellants before the Tribunal that the school bus was not involved in the accident. It was the further contention that the accident had happened because of the negligence on the part of the deceased himself. It was also contended that the deceased was in a drunken

condition, and as such, he himself become cause of his death in the accident. Income, age etc. were also disputed and the entitlement of the claimants was also disputed by the appellants. The Tribunal, however, after having assessed the oral and documentary evidence brought before it, allowed the petition in part and directed the appellants to pay compensation amounting to Rs. 4,30,000/- to the claimants with interest thereon from the date of filing of the claim petition till its realization.

5) Shri Jadhav, learned Counsel appearing for the Appellant, submitted that the Tribunal has failed in considering the evidence on record and has passed a cryptic order without making any discussion as regards the issues raised by the appellant in the written statement as well as through cross-examination of the witness examined on behalf of the claimants. The learned Counsel submitted that the claimants have not proved the negligence of the driver of the offending vehicle

in occurrence of the alleged accident. However, the Tribunal, without making any reference to the evidence on record and the issues raised by the appellant, has recorded a two-line finding, holding the driver of the bus belonging to the appellant, responsible for occurrence of the accident. Quantum of compensation is not seriously objected to by the appellant.

6) The learned Counsel appearing for the claimants has supported the judgment and award.

7) I have perused the impugned judgment and award. The Tribunal has, on assessment of the evidence on record, held the driver of the school bus guilty for occurrence of the accident. The Tribunal has recorded that from the spot panchanama and the contents of the FIR, it was revealing that the school bus went on wrong side and gave the dash to the deceased - motorcyclist. If this evidence is considered, it appears to me that no further discussion was required to be

made by the Tribunal in holding the driver of the offending bus guilty for occurrence of the alleged accident. Though the appellant has disputed the involvement of the bus owned by it in the alleged accident, as observed by the Tribunal, sufficient evidence has come on record showing the involvement of the said bus in occurrence of the alleged accident. The Tribunal has referred to the evidence of one Pandit, who was said to have eye-witnessed the alleged accident. The statement of said Pandit was recorded by the police on 23rd September, 2008, i.e. on the day of the incident itself. The Tribunal has, therefore, rightly relied upon on the testimony of the said witness. It has also come on record that the driver of the bus has been prosecuted in connection with the alleged accident. The involvement of the bus in the alleged accident is thus sufficiently proved. Admittedly, the appellant has not adduced any evidence in order to prove his defence denying the involvement of their bus in the alleged

accident. Further, in view of the fact that the bus entered on wrong side and gave dash to the deceased motorcyclist, the objection raised by the appellant that the deceased motorcyclist was in a drunken condition and he himself was cause of the accident, cannot be accepted. The appellant has thus failed in substantiating the defences raised by him. On scrutiny of the impugned Judgment and Award, in the light of the evidence adduced in the matter, it does not appear to me that the Tribunal has committed any error in holding the driver of the offending bus guilty for occurrence of the alleged accident. In so far as quantum of compensation is concerned, I have already noted that the said aspect has not been seriously disputed by the appellant. Moreover, the compensation determined by the learned Tribunal appears to be quite just and reasonable.

8) For the reasons stated above, no interference is called for in the impugned

Judgment and Award. The appeal appears to be devoid of any substance and deserves to be dismissed and is accordingly dismissed.

9) The original claimants are permitted to withdraw the amount, if any, deposited by the appellant towards the statutory liability or otherwise either in this Court or in the Tribunal, after expiry of the period of six weeks.

(P.R.BORA)
JUDGE

bdv/