

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

**CIVIL APPLICATION NO. 3689 OF 2015
IN
FAST/10629/2014
WITH
FAST 10629/2014**

THE DIVISIONAL CONTROLLER, MAHARASHTRA
STATE ROAD TRANSPORT CORPORATION,
AHMEDNAGAR.

VERSUS

URMILA ANTONE ADHAV AND ANOTHER

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Advocate for Applicant : Mr.Goyanka M.K.

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CORAM : V.K. JADHAV, J.

Dated: February 20, 2017

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PER COURT :-

1. Heard.
2. For the reasons stated in the application, and considering the submissions, delay of 87 days caused in filing the appeal stands condoned. Civil application for condonation of delay accordingly disposed of.
3. It appears from the record that, in respect of accidental death of deceased Antone, widow Urmila and son Samual of deceased Anton preferred MACP No.230/2007, whereas parents of deceased Anton

preferred MACP no.218/2007. The claims Tribunal by its impugned judgment and award dated 23.9.2013 partly allowed MACP No.218/2007 preferred by the parents and accordingly awarded the compensation of Rs.18,35,000/- to the claimants parents and also the claimants in MACP No.230/2007 who were arrayed as respondents nos. 2 and 3 in MACP No.218/2007. In view of the judgment and award passed in MACP No.218/2007, the learned Member of the Tribunal has disposed of MACP No.230/2007 preferred by the widow and son of deceased Anton in terms of the judgment and award passed in said MACP No.218/2007. Being aggrieved by the said award passed in MACP No.218/2007, MSRTC has preferred FA No.296/2014 and also preferred present appeal stamp no.10629/2014.

4. This Court by judgment and order dated 28.9.2015 in FA No.296/2014 (arises out of judgment and award passed by the Tribunal in MACP No.218/2007) remanded the matter back to the Tribunal by quashing and setting aside the impugned judgment and award

with the directions that the claimant may examine additional witnesses and the MSRTC is also entitled to adduce such other evidence.

5. In view of the judgment and order passed in first appeal no.296/2014, the impugned judgment and award in this appeal is also quashed and set aside and the matter is remitted back to the Tribunal with the same directions as per paragraph no.6,7 and 8 of the judgment and order in first appeal no.296/2014 which reads as follows :-

“6] The claimants will have to prove statement given by eye witness as the case would revolve more on the said statement given by eye witness. Considering beneficial legislation, I am inclined to grant one more opportunity to the claimants to adduce evidence of the said eye witness. In light of the above, the impugned judgment and award is quashed and set aside. The matter is remitted back to the tribunal. The claimants may examine additional witnesses. The appellant is also entitled to adduce such other evidence. The parties shall appear before the concerned tribunal on **20.3.2017**. The tribunal shall after giving opportunity to the parties to adduce further evidence decide the said claim petition expeditiously within six months from the date of

appearance of the parties.

7] The amount deposited by the appellant be transmitted to the tribunal. The same be retained by the tribunal till the decision and may pass further orders with regard to the disbursement of the said amount in tune with the judgment delivered by the tribunal. No costs.

8] It is made clear that whole matter will be open for the respective parties including proving accident and the quantum. In view of disposal of Appeal, Civil Applications stand disposed of.”

6. First appeal accordingly disposed of.

sd/-

(V.K. JADHAV, J.)

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aaa/-