

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.81 OF 2003

Shankar Jayaram Redekar & ors.

..Appellants

Vs.

The General Manager & ors.

..Respondents

...

Mr. Vasant R. Kadam i/b. Mr. Y. P. Narvankar for the appellants.

None for the respondents.

...

CORAM: C. V. BHADANG, J.

**DATE: May 22, 2017.
(VACATION JUDGE)**

P.C.

. This is an appeal challenging the judgment and award dated 19 January, 2002 passed by the Motor Accident Claims Tribunal at Kolhapur ("Tribunal" for short) in Motor Accident Claim No.62 of 2000. By the impugned judgment, the claim lodged by the parents for compensation of Rs.1,10,000/- in respect of death of their son Vasant Shankar Redekar has been dismissed.

2. According to the appellants i.e. parents of the deceased Vasant, the accident occurred on 11 November, 1995 at 6.15 pm near Sohale Phata, on Ajara Gadhinglaj Road. The deceased Vasant Redekar was a pillion Rider on a motor cycle which was not having any number plate. It was claimed that a S.T. Bus bearing No.MH-8823 gave dash to motor cycle from behind resulting into serious injuries to Vasant, to which he subsequently succumbed.

3. Before the Tribunal the appellant Shankar examined himself alongwith Maruti Rama Redekar who is admittedly the uncle of the deceased. The driver of the S.T. Bus viz. Balasaheb Baburao Baradeskar (DW.1) examined himself.

4. Admittedly Shankar (AW.1) is not an eyewitness to the occurrence of the accident and therefore Tribunal has rightly found his evidence to be of no assistance, on the point of either the involvement of the S.T. Bus or the negligence of the driver of the S.T. Bus in the accident. Maruti Redekar (AW.2) who reported the matter to the police, claimed to be traveling by the S.T. Bus from Ajara to Murgud. However, in the report Exh. 29, he claimed that he was proceeding by S.T. Bus from Chandgad to Murgud. Be that as it may, Maruti Redekar did not mention the registration number of S.T. Bus either in the report or during the evidence. It has come in the evidence of Maruti Redekar, that he was sitting in the S.T. Bus in the third row which was behind the driver and the Tribunal on this basis has opined that Maruti Redekar had no opportunity to witness the accident, if at all it was the same S. T. bus which has given dash to the motor cycle from behind. In fact in the report lodged by Maruti Redekar, he claimed that in the accident motor cycle gave a dash to S. T. Bus from behind.

5. I have carefully gone through the evidence of (AW.2) Maruti Redekar and (DW.1) Balasaheb Bardeskar reasoning articulated by the Tribunal in paragraph-9 onwards. I find that the Tribunal was justified in refusing to place reliance on the evidence of Maruti Redekar.

6. In this case, the police had not registered any offence against the driver of the S.T. Bus. The spot panchanama (Exh.30) clearly shows that at the time of drawing the spot panchanama the motor cycle was found lying on the spot having suffered damage to the front portion including the head light and also to the silencer. Had it been a case that, the S.T. Bus had dashed the motor cycle from behind it was unlikely that the motor cycle would sustain damage to the front side.

7. Balasaheb Bardeskar who was the driver of the S.T. Bus bearing no.MH 12-8823 has claimed that his Bus was not involved in any accident in which

Vasant died. He was not prosecuted by the police in respect of any such accident.

8. I have carefully gone through the judgment and award passed by the Tribunal and I do not find any reason to interfere with the same. I am conscious of the fact that hapless parents of a young boy are unable to seek compensation on account of the failure to establish involvement and negligence of the concerned S.T. Bus in the accident. However, given the evidence and other material on record, there is no option than to confirm the impugned judgment. In the result, the appeal is hereby dismissed, with no order as to costs.

(C. V. BHADANG, J.)