

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

1023 FIRST APPEAL NO.1973 OF 2017

SHIVAJIRAO LAXMANRAO PATIL
VERSUS
VISHWANATH S/O. TRIMBAK RAYADE AND OTHERS

...
Advocate for Appellant : Shri M.G.Biradar
Advocate for Respondent Nos.2 to 4 : Shri N.G. Kale
Respondent No.1 served

...
WITH
CA/10006/2018 IN FA/1973/2017
WITH
CA/8525/2017 IN FA/1973/2017
...

CORAM : P.R.BORA, J.

DATE: 15th February, 2019

PER COURT:-

1. With consent of the learned Counsel for the parties, the present appeal is taken up for final disposal at the admission stage.

2. The present respondent Nos.2 to 4 had filed Motor Accident Claim Petition No.5 of 2014, claiming compensation on account of the death of one Waman Venkoba Shirole alleging the same to have been caused in a road accident happened on 03.12.2008 having involvement of Ape-Auto Rickshaw. The present respondent No.1 was driving the said Ape-Auto Rickshaw at the

time when the alleged accident has happened and the present appellant is registered owner of the said Ape-Auto Rickshaw. The Tribunal, after having considered the evidence on record, has held respondent Nos.1 and 2 therein i.e. present respondent No.1 and appellant jointly and severally responsible to pay the amount of compensation to the tune of Rs.2,91,000/- with interest thereon @ 6% p.a. from the date of filing of the petition till its realization. Aggrieved thereby the appellant has preferred the present appeal.

3. Shri M.G.Biradar, learned Counsel for the appellant submitted that sufficient evidence was adduced by the present appellant showing that the offending Ape-Auto Rickshaw was sold by him to present respondent No.1 namely Vishwanath Trimbak Rayade and the sale deed was also placed on record. The learned Counsel submitted that in such circumstances, the Tribunal could not have held the present appellant responsible to pay any amount of compensation. The learned Counsel submitted that being the owner and the driver of the offending Ape-Auto Rickshaw, respondent No.1 only could have been held responsible by the Tribunal to pay amount of compensation. The learned Counsel in the circumstances prayed for setting aside the impugned Judgment and award passed against the present

appellant.

4. Shri N.G.Kale, learned Counsel appearing for the claimants submitted that the Tribunal has correctly held both the respondents jointly and severally liable to pay the amount of compensation. The learned Counsel pointed out that on the date of accident, the present appellant was shown as registered owner of the said Ape-Auto Rickshaw and the said fact has not been denied or disputed by the present appellant. The learned Counsel in the circumstances submitted that the Tribunal has passed a well reasoned order and no interference is required in the said order.

5. It is not in dispute that on the date of accident, the present appellant was shown as registered owner of the offending Ape-Auto Rickshaw bearing No. MH-24 F-5168. Though it is the contention of the present appellant that he had sold the said Ape-Auto Rickshaw to present respondent No.1, since in the R.T.O. record the offending vehicle continued to be in the name of the present appellant, the present appellant cannot escape from liability to pay the amount of compensation. Since this is the only objection raised by the appellant in exception to the impugned Judgment and award, which cannot be sustained, the

appeal deserves to be dismissed and is accordingly dismissed.

6. The statutory amount of Rs.25,000/-, deposited by the appellant in this Court, be transmitted to Motor Accident Claims Tribunal at Udgir, Dist.Latur.

7. Pending civil applications stand disposed of.

(P.R.BORA)
JUDGE

SPT