

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

FIRST APPEAL NO.1094 OF 2019

Divisional Controller,
Maharashtra State Road Transport
Corporation, Division Office, Beed

..Appellant

Vs.

1. Parvati w/o. Mahadeo Yadav
2. Chhakuli d/o. Mahadeo Yadav
3. Laxmibai w/o. Limbaji Yadav
4. Baliram s/o. Limbaji Yadav

..Respondents

Mr.A.B.Dhongade, Advocate for appellant
Mr.S.R.Shirsat, Advocate for respondents

**CORAM : R.G. AVACHAT, J.
DATE : DECEMBER 23, 2021**

ORDER :-

Heard.

2. It was an accident between an S.T. bus and a goods carriage. One of the persons travelling in the goods carriage, died as a result of the injuries suffered in the very accident. His legal representatives, therefore, preferred the claim for compensation. The Tribunal, vide impugned judgment and award dated 21.08.2018 in Motor Accident Claim Petition No.267 of 2015, granted a sum of Rs.9,88,000/- with interest at the rate of 9% per annum.

3. Being aggrieved and dissatisfied with the impugned award, the Maharashtra State Road Transport Corporation has preferred present appeal.

4. Mr.A.B.Dhongade, learned counsel for the appellant., would submit that it was a case of contributory negligence. A goods carriage is not permitted to carry a fare-paying passenger.

5. Considered the submissions made by learned counsel for the parties. For the claimants, it was a case of composite negligence and they, therefore, were entitled to proceed against both or any one of the joint tortfeasors. Admittedly, the driver, owner and insurer of the goods carriage were not parties to the claim petition. Even if any observations are made as regards composite negligence, same would not be binding on them, as they were not before the Tribunal and this Court as well.

6. It appears that the stand that the goods carriage was carrying fare-paying passengers, was not placed before the Tribunal. Same, therefore, cannot be agitated for the first time before this Court.

7. On the question of quantum, it appears that a modest amount has been awarded by the Tribunal. The claimants are not in appeal for enhancement of the compensation. Since a just and reasonable amount of compensation is found to have been awarded, there is no merit in the appeal. The appeal, therefore, fails. The same is dismissed.

8. The amount in deposit be paid to the respondents-claimants with interest accrued thereon, immediately.

[R.G. AVACHAT, J.]

KBP