

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1392 OF 2004

The Divisional Controller,
Maharashtra State Road
Transport Corporation,
Division - Jalna, Dist.-Jalna

...APPELLANT
(Original Respondent)

VERSUS

1. Ramesh Kashinath Jadhav,
Age : 44 years, Occu. - Servant,
R/o. : "Kumawat Wada" Sambhaji Chowk,
Nutan Vasahat, Ambad Road, Jalna
2. Ashok Kashinath Jadhav,
Age : 42 years, Occu. - Agriculturist,
R/o. : Rohilagad, Tq. - Ambad, Dist. - Jalna

...RESPONDENTS
(Original Claimants)

...
Advocate for Appellant : Mr. D.S. Bagul
Advocate for Respondent Nos.1 and 2 : Mr. V.M. Humbe
....

CORAM : S.G. DIGE, J.
DATE : 3rd August, 2022

ORAL JUDGMENT :

. Being aggrieved and dissatisfied by the judgment
and award passed by the Member, Motor Accident Claims

Tribunal, Jalna the appellant – original respondent No.1 preferred this appeal.

2. Brief facts of the case are as under :-

On 13.02.2000 original claimant No.1 – respondent No.1 was travelling with his family by Jeep bearing registration No. MXV/7088. The claimant No.1 was driving Jeep in slow speed and by extreme left side of the road. At about 03:15 p.m. S.T. bus No. MH-20-D-2923 came from opposite direction in high speed. It was driven rashly and negligently and all of a sudden, it dashed to the Jeep. Due to forceful impact the front side of the Jeep was crushed. The claimant No.1 and other persons in Jeep were injured. The claimant No.1 become unconscious. He was moved to the Civil Hospital, Jalna and then shifted to Government Hospital, Aurangabad. The crime was registered against the S.T. bus driver.

3. The claimant Nos.1 and 2 [respondent Nos.1 and 2] filed Claim Petition before the Member, Motor Accident Claims Tribunal, Jalna (for short “the Tribunal”) for getting

compensation of injuries sustained by claimant No.1 and damage caused to the Jeep. Considering the evidence on record and after hearing the parties, the Tribunal has awarded compensation of Rs.73,645/- for injury suffered by claimant No.1 and Rs.60,000/- towards damage of the Jeep. Against said judgment and order this appeal.

4. It is contention of learned Counsel for appellant that, Tribunal has committed error while appreciating the evidence on record. There was negligence of Jeep driver i.e. respondent No.1 who drove the Jeep in rash and negligent manner and gave dash to the S.T. bus but this fact was not considered by the Tribunal. The disability certificates are not proved in spite of that, compensation is awarded on higher side. Hence, requested to allow the appeal.

5. It is contention of learned Counsel for respondents that, while awarding compensation the Tribunal has considered all aspects. It proves from documents on record that, there was sole negligence of S.T. bus driver.

The income of injured is properly considered by the Tribunal. The order passed by the Tribunal is legal and valid.

6. I have heard both the learned Counsel. Perused judgment and order passed by the Tribunal.

7. Issue involved in this appeal is whether there was negligence of claimant No.1 and whether compensation is awarded on higher side.

8. It is contention of the learned Counsel of appellant that, there was negligence of Jeep driver - present respondent No.1, at the most the Tribunal should have considered contributory negligence. The First Information Report in respect of the accident is at Exh.48. This report is filed against the S.T. bus driver for driving the bus in rash and negligent manner. The other important document which shows the picture of the accident spot is spot panchanama. It is at Exh.49. In this spot panchanama it is mentioned that, front side of the bus was rammed into Jeep and the Jeep was dragged behind

for 20 Ft. The steering of the Jeep was broken and separated. In the spot panchanama it is also mentioned that, there was negligence of the S.T. bus driver. The spot panchanama depicts the actual position of the accident spot. It shows that, after accident Jeep was dragged behind for 20 Ft. by the speed of bus. It shows that, bus was in very high speed and S.T. bus driver was driving it in rash and negligent manner. Hence, I do not find merit in the contention of learned Counsel for appellant that, dash was given by the Jeep to the bus and it was negligence of the Jeep driver.

9. It is contention of learned Counsel for appellant that, compensation is awarded on the higher side. The claimant No.1 – respondent No.1 was injured in the said accident. He was admitted in the hospital. The disability certificate is at Exh.26. It shows that 30% permanent disability. The Counsel for appellant had objected to exhibit the disability certificate (Exh.26), discharge card (Exh.27) and bills of medical (Exh.28 to 35) but the Tribunal has exhibited these documents after hearing all

the parties. The said order was not challenged by the appellant. Hence, the disability of 30% is considered by the Tribunal is proper.

10. The claimant No.1 was peon in Irrigation Department. On the basis of his income the calculations are done by the Tribunal. The appellant has taken the ground that, compensation given on higher side but it is not pointed out, under which heads the compensation was given on higher side. I have seen the calculations done by the Tribunal and it appears that, the calculations are proper.

11. In view of the above, I pass the following order :-

ORDER

- (a) Appeal is dismissed.
- (b) Rule stands discharged accordingly.
- (c) No order as to costs.

(S.G.DIGE, J.)