

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

FIRST APPEAL NO. 732 OF 2009

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Dhule Division, Dhule
Depot, Dhule.

.. Appellant
(Orig. Respondent No.5)

VERSUS

1. Chiu @Rohini Gabaji Patil,
Age : 8 Years, Occ. Education
(Minor through her Natural
Guardian, Gabaji Pandurang Patil)
Age : 36 Years, Occ. Agricultural,
R/o. Mondhale Pimpri,
Tq. Prola District Jalgaon. (Orig. Claimant)
2. Kantilal Bhaurao Pagare,
Age : Adult Occ. Driver,
R/o. Plot No.12, Sambhappa
Colony, Dhule, Dist. Dhule (Deleted)
3. Shantaram Daulat Girase
Age : Adult Occ. Truck Owner,
R/o. Waghadi Tq. Shirpur,
District Dhule.
4. United India Insurance Co. Ltd
Notice to be serve upon the
Branch Manager, Dhule Office,
Dhule, District Dhule
5. Popat Dayaram Patil,
Age : Adult, Occ. S.T. Bus Driver,
R/o. Talegaon Tq. Chalisgaon
District Jalgaon. .. Respondents
(Orig. Res. No. 1 to 4)

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Advocate for the appellant : Mr. Afzal Hussain h/f
Mr. D. S. Bagul

Advocate for respondent No. 1 to 3 : Mr. C.R. Deshpande
Advocate for respondent No.4 : Mr. S. L. Awchar h/f
Mr. A. B. Gatne

....

AND

First Appeal No. 287 of 2008

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Dhule Division, Dhule
Depot, Dhule.

.. Appellant
(Orig. Respondent No.5)

VERSUS

1. Gabaji S/o Pandurang Patil,
Age : 36 Years, Occ. Agricultural
(Died)
- 2-A Nutan D/o Gabaji Patil @ Nutan W/o Sagar
Ingale, Age : 25 Years, Occ. Household,
R/o. Bidikamgar Nagar, Amrutdham,
Panchawati Nashik.
- 2-B Rohini D/o Gabaji Patil @ Bharti W/o Hemant
Mahale,
Age : 23 Years, Occ. Household,
R/o. At Post Dindori Dist. Nashik
3. Nutan Gabaji Patil,
Age : 10 Years, Occ. Education
4. Chiu @ Rohini Gabaji Patil,
Age : 8 years, Occ. Education,
(No. 2 & 3 Minor, through Natural
Guardian Res. 1)

All Residents of Mondhale Pimpari
Tq. Parola District Jalgaon (Original claimant)

5. Kantilal Bhaurao Pagare,
Age : Adult Occ. Driver,
R/o. Plot No. 12, Sambhappa
Colony, Dhule Dist. Dhule

6. Shantaram Daulat Girase
Age " Adult Occ. Truck Owner,
R/o. Waghadi, Tq. Shirpur
District Dhule
 7. United India Insurance Co. Ltd,
Notice to be served upon the
Branch Manager, Dhule Office,
Dhule, District Dhule
 8. Popat Dayaram Patil,
Age : Adult, Occ. S.T. Bus Driver,
R/o. Talegaon Tq. Chalisgaon
District Jalgaon
- .. Respondents
(Orig. Res. No. 1 to 4)

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Advocate for the appellant : Mr. D. S. Bagul
Advocate for respondent No. 2 and 3 : Mr. A.D. Sonar
Advocate for respondent No.6 : Mr. A. B. Gatne

....

AND
FIRST APPEAL NO. 207 OF 2008

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Dhule Division, Dhule
Depot, Dhule.

.. Appellant
(Orig. Respondent No.5)

VERSUS

1. Gabaji S/o Pandurang Patil,
Age : 36 Years, Occ. Agricultural
(Died)
- 2-A Nutan D/o Gabaji Patil @ Nutan W/o Sagar
Ingale, Age : 25 Years, Occ. Household,
R/o. Bidikamgar Nagar, Amrutdham,
Panchawati Nashik.
- 2-B Rohini D/o Gabaji Patil @ Bharti W/o Hemant
Mahale,
Age : 23 Years, Occ. Household,
R/o. At Post Dindori Dist. Nashik

3. Nutan Gabaji Patil,
Age : 10 Years, Occ. Education
4. Chiu @ Rohini Gabaji Patil,
Age : 8 years, Occ. Education,
(No. 2 & 3 Minor, through Natural
Guardian Res. 1)

All Residents of Mondhale Pimpri
Tq. Parola District Jalgaon (Original claimant)

5. Kantilal Bhaurao Pagare,
Age : Adult Occ. Driver,
R/o. Plot No. 12, Sambhappa
Colony, Dhule Dist. Dhule
6. Shantaram Daulat Girase
Age " Adult Occ. Truck Owner,
R/o. Waghadi, Tq. Shirpur
District Dhule
7. United India Insurance Co. Ltd,
Notice to be served upon the
Branch Manager, Dhule Office,
Dhule, District Dhule
8. Popat Dayaram Patil,
Age : Adult, Occ. S.T. Bus Driver,
R/o. Talegaon Tq. Chalisgaon
District Jalgaon

.. Respondents
(Orig. Res. No. 1 to 4)

....
Advocate for the appellant : Mr. D. S. Bagul
Advocate for respondent No. 2 and 3 : Mr. A.D. Sonar
Advocate for respondent No.6 : Mr. A. B. Gatne

....
AND
FIRST APPEAL NO. 127 OF 2010

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Dhule Division, Dhule
Depot, Dhule.

.. Appellant
(Orig. Respondent)

VERSUS

1. Pandit Uttam Koli,
Age : 30 Years, Occ. Labourer,
R/o. Aslod, Tq. Shahada,
Dist. Nandurbar (Orig. Petitioner)
2. Rampalsingh Malasingh,
Age : Adult, Occ. Driver,
(Dismissed against opponent No.1
as steps not taken)
3. Smt. Navinderkaur Gurudayalsing Padda,
Age : Adult Occu. Truck Owner,
R/o. 76, Gurunankpura,
Nagpur
4. National Insurance Company Ltd,
Branch manager, Dhule Dist. Dhule
5. Ibrahimkhan Chandkhan
Age : Adult Occu. ST Bus Driver
Maharashtra State Transport Corporation
Dhule Dist. Dhule Respondents
(No.1 orig. Claimant &
2 to 5 orig. respondent)

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Shri. D.S. Bagul Advocate for the applicant
(Original respondent No.5)
Mr. V. P. Raje h/f Mr. C.R. Deshpande, Advocate for
Respondent No. 1 and 5.
Shri. S. V. Kulkarni Advocate for respondent No.4
Mr. A. D. Sonar Advocate for respondent No.1.

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AND

FIRST APPEAL NO. 126 OF 2010

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Dhule Division Dhule
Depot Dhule .. Appellant
(Original respondent No.5)

VERSUS

1. Holkar Karsan Jawre
Age : 34 Years, Occ. Service,
R/o. Khondamali Tq. Nandurbar
Dist. Nandurbar (Orig. Petitioner)
2. Rampalsingh Malasingh,
Age : Adult Occu. Driver
(Dismissed against opponent No.1
as steps not taken)
3. Smt. Navinderkaur Gurudayalsing Padda,
Age : Adult, Occu. Truck Owner,
R/o. 76, Gurunankpura,
Nagpur
4. National Insurance Company Ltd,
Branch Manager, Dhule Dist. Dhule
5. Ibrahimkhan Chandkhan
Age : Adult Occu. ST Bus Driver
Maharashtra State Transport Corporation
Dhule Dist. Dhule Respondents
(No.1 orig. Claimant &
2 to 5 Orig. resp.)

Mr. D. S. Bagul Advocate for the appellant
Mr. V. P. Raje h/f Mr. C.R. Deshpande,
Advocate for respondent No.1
Mr. S. V. Kulkarni, Advocate for respondent No.4

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FIRST APPEAL NO. 72 OF 2010

Maharashtra State Road Transport
Corporation, Through Divisional
Controller, Dhule Division Dhule
Depot Dhule .. Appellant
(Original respondent No.2)

VERSUS

1. Sau. Anita W/o Ramdas Patil,
Age : 41 Years, Occ. Agriculture,
R/o. Lahan-Shahada, Tq. Shahada,

District Nandurbar

2. Ramplasingh Malsingh,
Age : Adult, Occu Driver,
(Dsimissed against present
Respondent No.2 as steps not taken)
3. Smt. Navinderkaur Gurudayalsingh Padda,
Age : Adult Occu. Truck Driver

Both R/o 76, Guruhnankpura,
Nagpur, Dist. Nagpur
4. National Insurance Company Ltd
Branch Manager, Dhule
5. Ibrahimkhan Chandkhan
Age : Adult, Occu. ST Bus Driver,
Maharashtra State transport
Corporation Dhule

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Mr. D. S. Bagul, Advocate for appellant
Mr. S. V. Kulkarni, Advocate for respondent No.4

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CORAM : S. G. DIGE, J.

Reserved on 15.7.2022

Pronounced on : 22.08.2022

JUDGMENT :-

1. Being aggrieved and dissatisfied by the common judgment and award passed by Motor Accident Claim Tribunal Dhule, the appellant original respondent No.5 preferred these appeals.

Brief facts of the case are as under :-

2. On 22nd March, 2002 at about 8.30 p.m. the respondents (original claimants) and their relatives were

travelling towards village Amode from Chalisgaon by S.T. bus bearing No. MH-20-D-2036. When that S.T. bus reached within the vicinity of Chalisgaon, one truck bearing No. MTS 6970 came from opposite direction in a high and excessive speed and both S.T. Bus and truck collided with each other i.e. it was head on collision. The said accident occurred due to rash and negligent act of drivers of both the vehicles. In the said accident, family members of two respondents in First Appeal No. 287 of 2008 and First Appeal No. 207 of 2008 are died whereas others are injured. The claim petitions were filed before the Motor Accident Claim Tribunal (for short tribunal) for getting compensation by legal heirs of deceased and injured persons.

3. Considering the evidence on record and after hearing the parties, the tribunal has awarded compensation against the respondents jointly and severally. Against the said order these appeals.

4. It is contention of learned counsel for the appellant that tribunal has not considered the evidence brought on record. There was negligence of truck driver only but the tribunal has wrongly concluded that it was contributory negligence of S.T. Bus driver. The income of the respondents-

original claimants have been considered on higher side. Hence requested to allow the appeals.

5. It is contention of the learned counsel for the respondent that the tribunal has considered liability of bus driver and truck driver 50:50% in some matters and 60:40% in some matters. The amount of compensation given to the claimants are meager amount. The appellant has challenged the order of tribunal before this Court by way of First Appeal Nos. 1019 of 2009 and 2066 of 2010. This Court [Coram : S.V. Gangapurwala] has dismissed these appeals. The said judgment has not been challenged by the appellant.

6. I have heard all learned counsel. Perused the Judgment and award passed by the tribunal. These are six appeals hence I would deal these appeals one by one.

First Appeal No. 732 of 2009

7. In this appeal, the claimant was injured in the accident and total compensation amount is granted by the tribunal is Rs. 10,000/-. The liability of the driver of the appellant is held as 40% so the appellant is liable to pay Rs. 4,000/-. It is very meager amount hence I do not find any reason to interfere in the judgment and order of the tribunal.

First Appeal No. 287 of 2008

8. In this appeal the death is caused of Sarita Patil who was travelling in the bus of appellant. The tribunal has considered all the evidence and earning of the deceased Sarita and granted total compensation of Rs. 2,25,000/-. Thus, the tribunal has held negligence on the part of the truck driver and bus driver is 60% : 40%. So the appellant is liable to pay Rs. 90,000/-.

First Appeal No. 2087 of 2008

9. In this appeal death is caused of master Vishal, who was travelling in the bus. He was three years old. Total compensation of Rs. 1,10,000/- is awarded by the tribunal. The appellant is held liable for 40% of compensation which comes to Rs. 44,000/-

First Appeal No. 127 of 2010

10. It is injury claim. Total compensation was awarded Rs. 47,500/- and the driver of the appellant is held responsible in this matter to the extent of 50%, so appellant is liable to pay Rs. 23,750/-.

First Appeal No. 126 of 2010

11. It is injury claim. Total compensation granted by the tribunal Rs. 50,500/-. The driver of the bus held responsible to the extent of 50% so appellant is liable to pay Rs. 25,250/-.

First Appeal No. 72 of 2010

12. It is injury claim. Total compensation amount is granted Rs. 1,65,500/-. 50% liability is imposed on S.T. bus driver so appellant is liable to pay Rs. 82,750/-.

13. Considering the evidence on record, led in these appeals, it appears that learned tribunal has considered all the aspects and awarded compensation accordingly. Moreover this Court in two appeals filed by the appellants have confirmed the Judgment and award of tribunal. The said Judgment has not been challenged by appellant hence it has attained finality. Hence I pass the following order.

ORDER

- (i) All the appeals are dismissed.
- (ii) No order as to costs.
- (iii) In view of dismissal of the appeals, the claimants are entitled for withdrawal of the amount if not withdrawn by them.

**(S.G. DIGE,)
JUDGE**