

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

FIRST APPEAL NO.1167 OF 1996

Maharashtra State Road Transport
Corporation

...Appellant

Versus

Shashikant Dattaram Sawant

...Respondent

...

Mr. G.S. Hegde with Ms P.M. Bhansale for the Appellant-MSRTC.
Ms Sarika Shetye i/b. Mr. S.B. Shetye for the Respondent.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th OCTOBER, 2022.

P.C. :-

1. The Appellant herein has challenged judgment and order dated 01/08/1995 in Special Civil Suit No.33 of 1993. By the impugned judgment, learned Judge, C.J.S.D., Ratnagiri at Sawantwadi, awarded compensation of Rs.3,00,000/- to the Respondent (hereinafter referred to as 'the Plaintiff') with interest @ 12% p.a. from the date of the order till realization.

2. The brief facts necessary to decide this appeal are as under:
The Respondent -Plaintiff was serving as a Fuel Clerk in the Appellant - M.S.R.T.C. Corporation in Kankavali Depo and drawing salary of Rs.3,000/- per month. On 06/03/1990 at about 7.45 a.m. while the

Plaintiff was filling diesel in a ST bus, all of a sudden smoke emitted from the diesel pump. That emission of toxic gas affected his vision resulting in loss of eye sight.

3. The grievance of the Plaintiff is that the incident was due to the failure of the MSRTC to take safety measures. The Plaintiff further claimed that the injury has resulted in 100% functional disability affecting lives of six members of his family, who were totally dependent on him. The Plaintiff therefore claimed compensation of Rs.3,00,000/-.

4. The Appellant -Corporation admitted that the Plaintiff was its employee, but denied that the Plaintiff had sustained injuries because of its negligence. The Appellant also denied that the injuries suffered by the Plaintiff have resulted in total loss of earning capacity.

5. The Trial Court framed issues and upon considering the evidence adduced by the respective parties held that the Plaintiff had suffered injuries while he was on duty on the Fuel Pump of the Corporation. The Trial Court has also recorded a finding that the incident had occurred due to negligence of the Corporation and the Plaintiff has lost his eye sight resulting in total loss of earning capacity.

6. As regards the quantum of compensation, the Trial Court upon considering the age and income of the Plaintiff and the number of dependents awarded compensation of Rs.3,00,000/-. Aggrieved by this order, the Corporation has filed this appeal.

7. Heard Mr. Hegde, learned counsel for the Appellant and Ms Sarika Shetye, learned counsel for the Respondent. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

8. It is not in dispute that the Plaintiff was serving as a Fuel Clerk with the Appellant-Corporation. He was on duty on 06/03/1990. The evidence of the Plaintiff reveals that the Plaintiff has lost his eye sight due to emission of toxic gas at the Petrol Pump. The evidence of PW3, PW4 and PW5 also substantiates the case of the Plaintiff that he had sustained injuries while he was on duty at the diesel station, resulting in 100% functional disability. The evidence on record reveals that accident was due to the failure of the Appellant-Corporation to take precautions and requisite safety measures. The Plaintiff was 43 years of age and was earning Rs.3,000/- per month. The wife of the

Plaintiff is handicapped and total six members of his family were dependent on him. Considering the above facts and circumstances, the compensation of Rs.3,00,000/- is neither exorbitant nor unjust and unreasonable.

9. Under the circumstances, the appeal has no merits and is accordingly dismissed.

(SMT. ANUJA PRABHUDESSAI, J.)