

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

FIRST APPEAL NO. 1185 OF 1996
with
FIRST APPEAL NO.1186 OF 1996
with
CROSS OBJECTION (ST) NO. 22337 OF 1997
In
FIRST APPEAL NO. 1186 of 1996

Maharashtra State Road Transport Corporation ..Appellant/Applicant.

v/s.

Bhalchandra Dattatraya Kanade ..Respondents

Mr. G.S.Hegde a/w. Ms.P.M.Bhansali a/w. Dharini Jain for the
Appellant/Applicant.

Ms. Pavitra Manesh i/b. M.S.Topkar for the Respondent.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 20th SEPTEMBER, 2022.**

P.C.

1. Learned Counsel for the Respondent, upon instructions, states that the Respondents do not wish to proceed with the cross objections. Hence Cross Objections are dismissed as withdrawn.

2. The Appellant Corporation has challenged the judgment dated 25.07.1996, passed by the Claims Tribunal, Satara in Claim Petition No. 131 of 1992 and Claim Petition No.132 of 1992. By the impugned judgment, the Claims Tribunal partly allowed both the claim petitions and awarded compensation of Rs.56,610/- to the Respondent Sneha (Claimant in Claim Petition No. 131 of 1992) and Rs.403534/- to the

Respondent Bhalchandra(Claimants in Claim Petition No.132 of 1992).

3. Brief facts necessary to decide this appeal are as under:

The Respondent, Bhalchandra Dattatraya Kanade and the Respondent No.1 Sneha Kanade, who shall be hereinafter referred to as the Claimants had filed Claim Petitions under Section 166 of the Motor Vehicles Act in view of the injury sustained in Motor Vehicular Accident, on 11.2.1999 involving S.T.Bus, bearing No.MWR-5078. The Claimants alleged that the said accident was cause solely due to the rash and negligent driving of the driver of the S.T.Bus. The Claimants alleged that they had sustained grievous injuries in the said accident resulting in permanent disablement .

4. The Appellant Corporation denied that the accident was caused due to rash and negligent driving of the driver of the ST bus and attributed negligence to Bhalchandra, the rider of the motor cycle. The Respondent also denied the age and income of the respective claimants and asserted that the claim was exorbitant.

5. Considering the nature of the injuries, the extent of permanent disablement, as well as the age and income of the Claimant, the Tribunal awarded compensation of Rs.56,610/- to the Claimant Sneha and Rs. 4,03,534/- to Claimant Bhalchandra. Being aggrieved by this judgment, the Appellant Corporation has filed these appeals.

6. Heard Shri Hegde, learned Counsel for the Appellant-Corporation and Ms. Pavitra Manesh, learned Counsel for the Respondent/Claimants. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

7. The question for consideration is whether the accident was caused due to rash and negligent driving of the driver of the offending vehicle and whether the compensation awarded by the Claims Tribunal is just and reasonable.

8. It may be mentioned that though the proof of negligence is a sine qua non for maintaining the petition under Section 166 of Motor Vehicles Act, the standard of proof beyond reasonable doubt cannot be made applicable to the Petitions under Section 166 of the Motor Vehicles Act. In the instant case, the Claimants are required to establish their case merely on the touch stone of preponderance of probability. It is not in dispute that the offending vehicle- S.T.Bus owned by the Corporation was proceeding from Mahabaleshwar to Satara, whereas the Claimant Bhalchandra was proceeding towards Mahabaleshwar on his motor cycle with his wife Sneha as a pillion rider. There was collision between these vehicles on a U turn in Ghat Section at Kelapada. It is claimed in evidence that the bus was descending the slope, whereas the motorcycle was ascending the slope at a slow speed and on the correct

side of the road.

9. Generally the vehicle ascending the slope would be at a slower speed as compared to the vehicle which is descending the slope. Infact, that the motor cycle was ascending the slope supports the case of the Claimants that the motor cycle was at a slow speed. The contention of the Claimants that the accident was caused due to the rash and negligent driving of the driver of the ST Bus is also fortified by the fact that the FIR was registered against the driver of the S.T. Bus and he was prosecuted for driving the vehicle in a rash and negligent manner. Considering the above facts and circumstances, the finding of the Tribunal that the accident was caused due to rash and negligent driving by the driver of the S.T. Bus does not suffer from any manifest error.

10. As regards the quantum of compensation, it is in evidence that the Claimant Bhalchandra Kanade was 36 years of age. He was an Advocate practicing in the Courts at Dapoli, Ratnagiri and Khed. He was treated in Choudhary Hospital for one month as an indoor patient. The Applicant had produced medical bills to prove that he had incurred medical expenses to the tune of Rs.39,534/-. The Claimant had stated that his income was Rs.3000/- per month. Considering the nature of the injuries and the period of treatment, the Tribunal has awarded compensation of Rs.2,52,000/- towards future loss of income,

Rs.25,000/- towards pain and suffering, Rs.20,000/- for conveyance charges, Rs.4000/- for hiring taxi and further awarded compensation of Rs.14,281/- towards damage caused to the motorcycle. The Tribunal has thus awarded total compensation of Rs.4,03,534/- . The compensation awarded by the Tribunal is based on record and cannot be said to be exorbitant.

11. As regards claimant Sneha, it is in evidence that she had sustained injuries resulting in 15% permanent disablement. She had produced medical bills to the tune of Rs.15,610/-. Considering the nature of injuries, the Tribunal has awarded compensation of Rs.10,000/- towards future loss of income and Rs.10,000/- towards pain and suffering. The amount awarded by the Claims Tribunal is just and reasonable and does not warrant any interference.

12. Both the appeals are dismissed.

. The Appellant is directed to deposit the balance amount before the Claims Tribunal within a period of three weeks.

. Cross Objection/Civil applications, if any, stand dismissed in view of dismissal of the appeals.

(ANUJA PRABHUDESSAI, J.)