

*Sharayu Khot.*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2508 OF 2022

IN

FIRST APPEAL NO.1040 OF 2022

Sachin Manikrao Naikawadi

...Applicant

In the matter between

The Maharashtra State Road Transport  
Corporation

...Appellant

*Versus*

Sachin Manikrao Naikawadi

...Respondent

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Mr. Anikent Nangare i/b. Nitesh V. Bhutekar for the Appellant.

Mr. Bhushan Walimbe, for Respondent in FA and for Applicant in I.A.

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CORAM : R.I. CHAGLA J

DATE : 05 December 2022

ORDER :

1. By this Interim Application, the Applicant is seeking withdrawal of the entire amount awarded by the Member of the Motor Accident Claims Tribunal, Kolhapur by the impugned judgment and order dated 9th March 2020 in M.A.C.P. No. 539 of

2010.

2. The Applicant had suffered injury and the MACT has answered the issue as to whether the accident took place because of the rash and negligent driving of vehicle S.T. bus bearing No. MH-20-D-4925 in the affirmative.

3. The Applicant who was driving the car suffered accident due to negligence of the bus driver, who had dashed the bus against the car and the Applicant had become unconscious and was shifted to hospital for medical treatment.

4. The Applicant at the time of accident was a strong person aged 37 years, working as a skilled fabricator and thereby earning Rs. 6,000/- per month. It is further stated that the Applicant is the only earning member of the family and the family members are dependent on him. Compensation awarded to the Applicant is a sum of Rs. 5,47,424/- with interest at the rate of 7% per annum from the date of Application till realization of entire amount.

5. I have perused the averments in the Interim Application

as well as considered the impugned judgment and order dated 9th March 2022. The MACT in the impugned judgment and order has answered the issue of negligence of the bus driver, because of the rash driving in the affirmative. Thus, a case is made out for withdrawal of the amount deposited by the Appellant other than the amount of Rs. 1,00,000/- which the MACT, Kolhapur had directed that upon receipt of the compensation amount, the Applicant shall invest the amount of Rs. 1,00,000/- in the fixed deposit of a nationalised bank. Hence, the following order is passed. :-

- (i) The Applicant is permitted to withdraw the amount deposited by the Appellant pursuant to the order dated 28th January 2021 passed by this Court other than amount of Rs. 1,00,000/- which was directed by the MACT, Kolhapur in the impugned judgment and order to be deposited with a nationalized bank. The withdrawal of the above amount shall be subject to the Applicant furnishing an undertaking within a period of two weeks that if the Appellant succeeds in the Appeal, the Applicant shall return the amount with

interest at such rate as shall be determined by this  
Court.

- (ii) Interim Application is accordingly disposed of.

**[R.I. CHAGLA J.]**