

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

FIRST APPEAL NO.405 OF 2020

Maharashtra State Road Transport Corporation,
Bhandara, through its
Divisional Controller/Traffic Controller,
Bhandara also at Mumbai

...APPELLANT

VERSUS

1. Smt. Gangubai wd/o Gopichand Raut,
Age about 59 years, Occ. Household,
R/o. Post-Chandori, Tah. Sakoli,
Dist. Bhandara
2. Sitaram s/o Fagoji Khotele
Aged about Major, Occ. Driver of MSRTC,
R/o. Dharmapuri (Kumbhali),
Tah. Sakoli, Dist. Bhandara

...RESPONDENTS

Shri Y.R. Chougule, Advocate h/f Shri Rohan Chhabra,
Advocate for the appellant.
Shri R.D. Karode, Advocate for the respondent No.2.

CORAM : M.S. KARNIK, J.

DATED : APRIL 18, 2022.

ORAL JUDGMENT

Heard learned counsel for the appellant.

2. By an order dated 11/12/2020, notice for final disposal came to be issued.

3. Learned counsel appears on behalf of respondent No.2- driver of the offending vehicle of M.S.R.T.C. None appears on behalf of the respondent No.1-claimant.

4. The claimant – Gangubai Raut filed claim petition before the Motor Accident Claims Tribunal, Bhandara (for short ‘M.A.C.T.’) under Section 166 of the Motor Vehicles Act, 1988 (for short ‘the said Act’) for grant of compensation of Rs.10,00,000/- (Rs. Ten lacs). The claimant’s son by name Shrikant died in the motor accident on 13/02/2010.

5. By the impugned order dated 06/12/2019 passed below Exh.5, the M.A.C.T. directed the appellant as well as respondent No.2 to jointly and severally deposit “No Fault Liability” (for short ‘NFL’) amount of Rs.50,000/- (Rs. Fifty thousand) with interest at the rate of 7% per annum from the date of accident i.e. 13/02/2010 till the date of deposit in the tribunal, within one month from the date of the order i.e. 06/12/2019.

6. Assailing the order by filing this appeal under Section 173 of the Motor Vehicles Act, 1988, learned counsel for the appellant – M.S.R.T.C. contended that the tribunal committed an error in granting interest on the NFL amount from the date of the accident which is impermissible. Learned counsel relied on Section 171 of the said Act to contend that even when the Claims Tribunal allows a claim for compensation made under this Act, such tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf. He therefore submits that the tribunal had committed an error in granting the NFL compensation from the date of the accident as even on a reading of Section 140 of the said Act which provides for liability to pay compensation in certain cases on the principle of no fault, there is no provision for awarding interest. The submission is that assuming the tribunal is justified in granting interest, in no case it should be in excess of what is provided under Section 171 of the said Act and in any case it cannot be from such date earlier than the date of filing of the claim petition.

7. No one has appeared on behalf of respondent No.1-claimant despite service.

8. I do find some substance in the contention raised by the learned counsel for the appellant. The impugned order under challenge is the one granting compensation on the principle of NFL during the pendency of the claim petition. The claim petition is still pending before the M.A.C.T. Instead of deciding this issue at this stage in the present appeal, I find it appropriate to keep this question open and permit the appellant to raise this issue before the tribunal in the course of hearing of the claim petition. The tribunal may decide on this aspect in accordance with law. I propose to partly allow the appeal. The amount of Rs.50,000/- has already been deposited by the appellant in this Court pursuant to the order dated 11/12/2020 passed in this appeal. Considering the totality of the circumstances, the order passed by the tribunal is modified. Clause 2 of the operative part of the impugned order dated 06/12/2019 will now read as :

“Respondent Nos.1 to 3 are directed to jointly and severally deposit N.F.L. amount of Rs.50,000/- with interest @ 7% per annum from the date of filing the claim

petition i.e. 15/10/2018 till date of deposit in the tribunal, within one month from the date of this order.”

9. As the amount of Rs.50,000/- is already deposited in this Court, further time to deposit the interest component @7% per annum in terms of clause 2 of the operative part of the Tribunal's order as modified by this Court is granted till 08/06/2022. The amount to be deposited with the Tribunal.

10. The amount of Rs.50,000/- already deposited in this Court be transferred to the tribunal. The appellant is allowed to withdraw the amount of Rs.50,000/- (Rs. Fifty thousand) on the terms that may be specified by the tribunal.

11. The Tribunal shall make appropriate directions for investing the interest amount of 7% per annum which shall abide by the final orders passed in the claim petition.

12. Appeal is partly allowed in the above terms and disposed of with no order as to costs.