

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 236 OF 2008

Maharashtra State Road Transport Corporation	]	
Having its office at Vahatuk Bhavan, Dr. A. Nair Marg,	]	Appellant
Bellasis Road, Bombay Central, Bombay – 400 001.	]	(Org. Op.No.1)

Versus

Vithoba Bala Yadav	]	
Age-45, R/o. Shrikrishnanagar, Post – Dhalgaon,	]	Respondent
Tal. Kavathe-Mahankal, Dist – Sangli	]	(Org. Claimant)

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Ms. P. M. Bhansali a/w. Ms. Dharini Jain i/b. G.S.Hegde, Advocate for the Appellant.

Mr. Ramdas A. Shelke, Advocate for Respondent.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd DECEMBER, 2023

JUDGMENT :

1. The issue involved in this appeal is contributory negligence of the tempo driver in which the claimant was travelling and income of the claimant is considered on higher side.

2. It is the contention of learned counsel for the appellant that accident occurred due to sole negligence of driver of Tempo No. MWE-2767. The Tribunal has considered composite negligence of driver of ST bus 50% and driver of tempo 50% which is not proper. Learned counsel further submitted that the Tribunal has awarded compensation of Rs.12,646/- to the claimant without any evidence on record which is on

higher side, hence requested to allow the appeal.

3. It is the contention of learned counsel for respondent/claimant that due to accident claimant had received fracture injuries to his right hand at two places and injuries to lower jaw as a result his four teethes have fallen. Considering the evidence on record the Tribunal has awarded compensation, hence no interference is required in it.

4. I have heard both the learned counsel. Perused the Judgment and Order passed by the Motor Accident Claims Tribunal, Sangli (for short “**the Tribunal**”). To prove the sole negligence of tempo driver, appellant has not examined any witness. Moreover, claimant has suffered fracture injuries as well as his four teethes have fallen due to accidental injuries. I do not find infirmity in the observation of the Tribunal and I pass following Order:

ORDER

- (a) The appeal is dismissed.
- (b) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- (c) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.

(SHIVKUMAR DIGE, J.)