

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

FIRST APPEAL NO.411 OF 2006

Maharashtra State Road Transport Corporation, office at Vahatuk Bhavan, Dr.A. Nair Marg, Bellasis Road, Bombay Central, Bombay-400 008.	}	
	}	
	}	
	}	
	}	...Appellant

Versus

1. Kum.Shilpa Deoram Jagtap	}	
2. Smt.Shalini Deoram Jagtap	}	
3. Master Kunal Deoram Jagtap	}	
4. Master Sumedha Deoram Jagtap	}	
5. Smt.Krishnabai Sopan Jagtap	}	
	}	
R/at B-10/17/2nd Floor, Room No.9,	}	
Sector No.15, Vashi, Navi,	}	
Mumba-400 703.	}	...Respondents

**NILAM
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Ms.P.M. Bhansali i/b G.S. Hegde & Associate, for the Appellant.
Mr.U.S. Pandey, for Respondent Nos.1 to 4.

CORAM : S.G. DIGE, J.

DATE : 10 MARCH 2023

JUDGMENT :-

. The issue involved in this Appeal is involvement of the vehicle.

2. It is contention of the learned counsel for the Appellant that after the accident no number of the vehicle was mentioned in the complaint given to the Police and after one and half month the FIR was registered against the driver of the offending bus, on the basis of the investigation, without any evidence, which is improper.

3. The learned counsel further submits that as per the Claimants case the deceased was going on scooter ahead of the offending bus and the offending bus dashed him from behind. Thereafter, he was taken to his house and thereafter, to hospital. Police has investigated the matter routinely and filed charge-sheet against the driver of the offending bus, but the Sessions Court has discharged the driver of offending bus from the said offences. It shows that the driver of offending bus was falsely involved in this case and offending bus was not involved in the said accident. But this fact is not considered by the Tribunal and has awarded exorbitant and excessive compensation.

4. The learned counsel for the Respondent-Claimant submits that the accident was witnessed by the co-employee of the deceased who was travelling in the said offending bus. When deceased was admitted in the hospital, after accident on the same day, he gave statement to the Police about how the accident was occurred. Thereafter, the statement of eye witness was recorded

by the Police, who has stated about happening of the accident. Moreover, the Appellant examined the driver of offending vehicle. In cross-examination this witness admitted that on the day of the accident he was plying the bus on the road where the accident had occurred. This witness further admitted that at the time and date when accident was occurred, the scooter was plying ahead of his bus, it shows that the offending bus was involved in the said accident.

5. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Thane (for short 'the Tribunal').

6. The issue involved in this Appeal is involvement of the vehicle. It is the Claimants case that on 29 May 1992 at about 5.50 p.m. a deceased was proceeding on Panvel Sion Highway on his scooter, he was near Bhindi Uran Phata, Near Nerul, Navi Mumbai, Vashi, at that time the offending bus No. MH-12-4385 came in high speed, rash and negligent manner and dashed the scooter of deceased from back side. As a result of which, the deceased fell on road and sustained head injuries. He died while taking treatment. The offence was registered against the driver of offending bus.

7. It is contention of the learned counsel for the Appellant that the FIR was registered on 2 August 1992, where as the accident was occurred on 29 May 1992. It shows the false involvement of the offending bus. Exhibit-34 is the statement given by the deceased to the police when he was taking treatment in hospital, he has stated that on the day of the accident he was proceeding on his scooter towards his office, at that time one ST bus dashed him, due to this he has injured. In his statement he further mentioned that in the said bus, lift men of his office Mr.Pawar was travelling and he took him to hospital. In statement deceased has stated that he could not notice the number of offending bus. The Police recorded statement of deceased on the same day after the accident.

8. On the basis of his statement Police made investigation in the matter and they took out the route of buses travelling on that road and on that basis Police filed FIR against the driver of the offending bus. The driver of the offending bus examined himself at Exhibit-63. He admitted that on that day and time when accident was occurred, he was travelling on that road. In cross-examination he has admitted that the scooter was proceeding in the same direction ahead of his bus. From evidence on record it reveals that on the day of accident the offending bus was travelling on the same direction and it gave dash to the deceased. Moreover, the Eknath Pawar friend of deceased gave

statement before the Police, which supports statement of deceased. So I do not find any merit in the contention of the learned counsel for the Appellant that there was false involvement of the offending bus in the said accident. In view of above, Appeal is devoid of merit and I pass following order.

ORDER

- (i) The Appeal is dismissed. No order as to costs.

- (ii) The Claimants are permitted to withdraw deposited amount along with accrued interest thereon.

- (iii) The statutory amount be transmitted to the Tribunal. Parties are at liberty to withdraw it, as per Rule.

- (iv) All pending Civil Applications, if any, are disposed of.

(S.G. DIGE, J.)