

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.893 OF 2014

Maharashtra State Road Transport }
Corporation Limited, Mumbai Thr. Its }
Secretary }
 }
(Original Opponent No.2-Represented by }
Divisional Controller, Nashik) }Appellant

V/s.

1. Smt.Veena Shridhar }
2. Chi.Navish Shridhar }
3. Nitish Shridhar }
All R/o. C/o. Ratnakar, 91/D, Hudco }
Colony, Bhadrawati, District-Shivmoga }Respondents
(Karnataka) }

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2023.12.16
14:58:34 +0530

Mr.Yashodeep Deshmukh a/w Ms.Vaidehi Pradeep, Ms.Aditi
Athawale, for the Appellant.

Ms.Shamiana Hussain i/by Mr.Pravartak Pathak, for the
Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th DECEMBER 2023

JUDGMENT :-

. The issue involved in this Appeal is contributory
negligence of the deceased.

2. It is contention of the learned counsel for the

Appellant that, accident caused due to sole negligence of deceased. But it was not considered by the Tribunal. The learned counsel further submitted that, Tribunal in Paragraph No.1 has observed that, the accident was caused due to negligence of the deceased, but has wrongly fixed 75% contributory negligence on driver of the Appellant, which is erroneous. Hence, requested to allow the Appeal.

3. The learned counsel for Respondent No.1 submitted that order passed by the Tribunal is proper.

4. Though Respondents/Claimants are served, none present for the Respondents/Claimants. Appeal is of the year 2014. Hence, I am deciding it on merit.

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

6. It is Claimant's case that, the deceased was going on motorcycle with his wife, at that time driver of the offending bus came from back side and gave dash to the motorcycle of the deceased. Due to which deceased fell down on the road divider

and sustained injuries and died.

7. It is contention of the learned counsel for the Appellant that motorcycle of deceased was on the right side of the bus and he was trying to take short turn, in that attempt accident occurred. There was sole negligence of the driver of the motorcycle. In my view, admittedly, the offence was registered against the driver of the Appellant. The documents produced on record shows that, driver of the offending bus had tried to overtake motorcycle of deceased. In that attempt, he gave dash to the motorcycle of the deceased. It appears that, the accident was caused due to sole negligence of the driver of the Appellant. But Tribunal has considered 25% contributory negligence of deceased. The Appeal is devoid on merit and I pass following order.

ORDER

- (i) The Appeal is dismissed. No order as to cost.
- (ii) The Respondents-Claimants are permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon.

(iii) The statutory amount be transferred to the Tribunal. The parties are at liberty to withdraw it, as per Rules.

(iv) Pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)