

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

FIRST APPEAL NO. 576 OF 2020

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The Brihan Mumbai Municipal Corporation, a Statutory Authority duly constituted under the provisions of the Mumbai Municipal Corporation Act, 1888, through General Manager, the Brihan Mumbai electric Supply And Transport Undertaking, having Office at BEST Bhavan, BEST Marg, Mumbai - 400 001.)
)
)
)
)
)
)Appellant
) (Orig. Opp. Party)
)

Versus

1. Mr. Shrinivasan Ramchandra Pai)
aged 27 years, brother of the deceased,)
Residing at: No. 4, H/6 Transit Camp,)
Dharavi, Mumbai - 400 070)
2. Mr. Ramchandra N. Narayan Pai)
aged 60 years, father of the deceased)
3. Mrs. Mohana Ramchandra Pai)
aged 50 years, mother of the deceased)
4. Ms. Anjana Ramchandra Pai)
aged 21 years, sister of the deceased)
Respondent Nos. 2 -4, All residing at:)
N. D. Estate 1/32, N. H.47,)
Kodam Thuruth - 688533.)
And)
5. Smt. Vidhya Viren Pai)
aged 21 years, widow of the deceased)

residing at C/o Venkateshwara,)
Vadhyar Puthen Veedu,)
Near Karnakadem, T. D. Temple,)
Paliravastome, P. O. Ernacolam,)
Cochin (Kochi) - 400 025.)Respondents
(Orgi. Applicant)

Mr. Hemal i/b Navdeep Vora & Associate for the Appellant.
Ms. Meenakshi Pahuja i/b A. M. Gokhale for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th APRIL 2023.

JUDGMENT :

1. The issue involved in this appeal is false involvement of offending bus.

2. It is contention of learned counsel for the appellant that, deceased was knocked down by the bus but the offending bus was falsely involved in the accident. Learned counsel further submit that, it was the case of the claimants that when deceased was going on the road, he was knocked down by the best bus but, the registration number of bus which was given to police was not belonging to the best bus. It was not proved before the tribunal that said accident

occurred due to best bus. But, this fact is not considered by the tribunal and has awarded exorbitant and excessive compensation. Hence, requested to allow the appeal.

4. It is contention of learned counsel for the respondents/claimants that, the FIR was lodged against the driver of offending bus. The accident incident was witnessed by eye witness and he has stated that, best bus gave dash to the deceased. The tribunal has considered all the aspects while awarding compensation. Hence, no interference is required in it.

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

6. It is claimant's case that on 24th July, 2000 at about 10:00 p.m. deceased Virendrnath was walking on road at relevant time best bus bearing registration no. MH/01/H-8384 driven in excessive speed and reckless manner, knocked down Virendranath, he sustained fatal injuries. The claimant alleges that, the accident occurred due to

rashness and negligence of driver of the offending bus. It is contention of learned counsel for the appellant that, the offending bus was falsely involved in the accident. To prove involvement of the best bus, the claimants have examined PW-2 Tanvir Shaikh who was eye witness to the incident. He has stated that on 24th July, 2000. He and his friend were walking on Dadar (E) towards Sion. He saw that a best bus came from Sion. When the driver of the bus was taking the bus towards left side, the bus dashed one person standing by the side of the road. The bus stopped after proceeding 15m to 20m ahead. This witness noted down the number. He immediately called police control room and informed the police about the accident. The offending bus stopped for a minute, after that driver of another best bus gave some instructions to the driver of offending bus. The driver of the offending bus, taken away the bus from the place of the accident. After some time police man reached to the accident spot. In cross-examination this witness admitted that the best bus came from backside of the person to whom the bus dashed that person was standing on the road before the bus stop. This witness has denied the suggestion that the bus involved in accident was some other bus. While dealing with issue of involvement of the bus, the tribunal has

observed that PW-2 Tanvir Ahmed Shaikh, was independent witness. He has seen the accident, he has no reason to depose in favour of the claimant, he has no reason to falsely implicate the offending bus. He has neither related to the claimants, nor does he have any grudge against the opposite party. I do not find any infirmity in it.

7. In my view, PW-2, who had seen the incident had given registration no. MMK-8658 which was belonging to other vehicle. It is contention of learned counsel for the appellant that, when the PW-2 witnessed the incident. He informed the registration number of bus to the police, given registration number was wrong. In my view, mere giving the wrong registration number by the eye witness who has no concern with the claimants cannot be a ground to deny the compensation. As, the eye witness has categorically stated that, the bus who dashed the deceased was best bus and best bus has different identity than other buses. The accident occurred in the year 2000, and in those days no other buses were flying on the road like today. The people usually identify the best buses from their look out. Hence, I see no merit in the contention of learned counsel for the appellant that best bus was falsely involved in the accident.

8. The appeal is devoid of merit and I pass following order.

ORDER

- i. Appeal is dismissed. No order as to cost.
- ii. The claimants are permitted to withdraw deposited amount along with accrued interest thereon.
- iii. The statutory amount be transmitted to the tribunal. The parties are at liberty to withdraw it, as per Rule.

(SHIVKUMAR DIGE, J.)