

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

FIRST APPEAL NO.454 OF 2022

Maharashtra State Road Transport	}	
Corporation Limited, Mumbai Thr Its	}	
Divisional Controller, Palghar Division	}	
Near Palghar Station (E), Thane	}	...Appellant

Versus

NILAM
SANTOSH
KAMBLE

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NILAM SANTOSH
KAMBLE
Date: 2023.06.02
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1. Smt.Kamlabai Sakharam Bhoir	}	
2. Kum.Mandira Sakharam Bhoir	}	
3. Kum.Madhuri Sakharam Bhoir	}	
4. Kum.Akshay Sakharam Bhoir	}	
5. Kum.Ashish Sakharam Bhoir	}	
	}	
All R/at Khardi, Tal.Palghar,	}	
District-Thane.	}	...Respondents

Mr.Yashodeep Pradeep Deshmukh, for the Appellant.
Ms.Varsha Nichani a/w Mr.Vijay Sardal, for Respondent Nos.1 to 5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 4 MAY 2023

JUDGMENT :-

. The learned counsel for the Appellant submits that the accident occurred due to contributory negligence of deceased, but Tribunal has held negligence of driver of Appellant as 80% for the said accident and 20% negligence is fixed on deceased. The learned counsel further submits that the amount under the

head of consortium is awarded on higher side.

2. The learned counsel for the Respondent-Claimants submits that the accident occurred due to sole negligence of the driver of offending bus. But Tribunal has fixed 20% liability on the deceased, which is improper. The learned counsel further submits that if the matter is going to finally settled, the Claimants are ready to accept 25% negligence of the deceased. The learned counsel for the Appellant submits that if the Claimants are not going to file further Appeal for enhancement of compensation, he has no problem to dispose of the Appeal.

3. Both learned counsel tendered the chart of compensation, which they are agreed.

4. Considering the submission of both learned counsel the chart prepared by both counsel, is taken on record and I pass following order.

ORDER

(i) Appeal is partly allowed.

(ii) The Claimants are entitled for Rs.29,64,375/- @ 7.5% per annum from the date of the filing Claim Petition till realization of the amount.

(iii) The Appellant is permitted to withdraw amount of Rs.2,93,625/- along with accrued interest thereon.

(iv) The Claimants are permitted to withdraw amount of Rs.29,64,375/- along with accrued interest thereon.

(v) The statutory amount be transmitted to the Tribunal. Parties are at liberty to withdraw it.

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

(SHIVKUMAR DIGE, J.)