

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 128 OF 2021**

|                                                   |   |             |
|---------------------------------------------------|---|-------------|
| The Maharashtra State Road Transport Corporation  | ] | Appellant   |
| Through its Divisional Manager, N. D. Patel Road, | ] |             |
| Shingada Talao, Nashik, Tal. And Dist. Nashik     | ] |             |
| Versus                                            |   |             |
| 1. Sunil Kondaji Gulve                            | ] |             |
| Age : 34 years, Occ : Agriculture                 | ] |             |
| 2. Adinath Sunil Gulve                            | ] |             |
| Age : 8 years, Occu : Education                   | ] |             |
| Claimant No.1 is for himself and next friend of   | ] |             |
| Claimant No.2 both R/o Kundewadi, Tal.Sinnar,     | ] |             |
| Dist. Nashik.                                     | ] | Respondents |

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Mr. Nitesh V. Bhutekar a/w. Mr. Aniket Nangare, Advocate for the Appellant.

Mr. Pritesh K. Bohade, Advocate for Respondent Nos. 1 and 2.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 10<sup>th</sup> JANUARY, 2024.**

**JUDGMENT :**

1. The issues involved in this appeal are there was contributory negligence of the rider of the motorcycle on which deceased was a pillion rider, there was head on collision and evidence of defence witness has not been considered.

2. It is the contention of learned counsel for the appellant/Corporation that there was head on collision between the motorcycle and S.T.bus. The

accident occurred due to sole negligence of rider of the motorcycle but this fact is not considered by the Tribunal. Learned counsel further submitted that to prove its defence the appellants have examined driver of offending bus. He has stated that accident occurred due to negligence of the rider of motorcycle, but his evidence is not considered by the Tribunal, hence requested to allow the appeal.

3. It is the contention of learned counsel for the respondents / claimants that while passing the Judgment and Order, the Tribunal has considered all the aspects and on that basis Judgment and Order is passed, which is legal and valid and 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, Nashik (for short **“the Tribunal”**). It is claimants’ case that on 26.01.2014 at about 3.45 p.m., deceased Sunita was proceeding on motorcycle bearing No. MH-15-B-5091 from Nashik to Kundewadi. At relevant time, when she reached at Karhegaon Shivar, one jeep was stationed on road, hence motorcycle on which she was riding was stopped. At the same time, one S.T. bus bearing No. MH-14-BT-696 came in rash and negligent manner and dashed to motorcycle. Due to the said dash she suffered grievous injuries and sustained to injuries. The offence was registered against the S.T. bus driver. To prove its case the claimant No.1 has examined at Exhibit-11, he

has stated that accident occurred due to sole negligence of driver of S.T. bus. In cross examination he admitted that there was head on collision between the motorcycle and bus. He denied the suggestion that he had tried to overtake the jeep and crossed the center line, therefore accident took place. To prove its defence the Corporation has examined bus driver Vinod Thoke at Exhibit-19. He has stated that one two wheeler was following the taxi jeep. The taxi jeep suddenly stopped and therefore two wheeler dashed the taxi, he has further stated that due to dash, the women on motorcycle fallen down on the road thereafter he does not know what had happened. In my view, the claimant No.1 was the eye witness to the accident as he was riding the motorcycle with deceased. He has stated that the accident occurred due to negligence of the driver of the S.T. bus. It has come in the evidence of driver of S.T. bus that when he saw deceased fell on the ground, he was not aware what had happened thereafter. It shows that accident occurred due to sole negligence of the driver of the S.T. bus. I do not find infirmity in the observation of the Tribunal. The appeal is devoid of merit.

5. In view of above, I pass following order :

**ORDER**

- (i) The appeal is dismissed. No order as to costs.
- (ii) The claimants are permitted to withdraw the deposited

amount along with accrued interest thereon.

(iii) The statutory amount be transferred to the Tribunal.

The parties are at liberty to withdraw it as per the Rules.

6. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

SONALI  
SATISH  
KILAJE

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by SONALI  
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