

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

**INTERIM APPLICATION NO.10074 OF 2024
(for withdrawal)**

IN

FIRST APPEAL STAMP NO. 13833 OF 2024

Suvarna W/o. Krushna Ingale and ors. Applicants

In the matter of

Maharashtra State Road Transport Corporation Appellant
Pune through Divisional Controller

versus

Suvarna W/o. Krushna Ingale and ors. Respondents

With

**INTERIM APPLICATION NOS.8626 AND 8627 OF 2024
(for delay and stay)**

with

FIRST APPEAL STAMP NO. 13833 OF 2024

Maharashtra State Road Transport Corporation Applicant/
Pune through Divisional Controller Appellant

versus

Suvarna W/o. Krushna Ingale and ors. Respondents

Mr. Yogesh Pande, Advocate for the Applicants/Claimants (through VC).
Mr. D. D. Rananaware, Advocate for the Appellant.

CORAM : ARUN R. PEDNEKER, J.

DATE : 8th JULY, 2024.

P.C. :

1. The appellant has filed the appeal on the ground of negligence so also on the ground of quantum of compensation granted by the Tribunal.

2. The learned counsel for the appellant - MSRTC submits that the deceased rider of the motor-cycle was overtaking from the left side of

the bus, as such, he was himself negligent and, in any event, some amount ought to have been deducted towards contributory negligence. He further submits that the quantum of Rs.10,000/- per month considered as income of the deceased is also on the higher side. He submits that apart from the certificate by the employer, no other evidence is produced on record indicating that such a payment was made to the deceased.

3. As regards the negligence, the Tribunal in Paragraph 12 has observed as under :

“12. An offending Bus driver was charge-sheeted as per the charge-sheet vide Exh.22 for causing the alleged accident and accidental death of deceased Krushna by driving the offending Bus in rash & negligent manner and giving a dash to the motorcycle of the deceased from its rear side. The driver of offending Bus has not challenged the registration of FIR. and filing of charge-sheet against him before the Competent Authority. Thus, it appears that alleged accident was occurred due to the rash & negligent driving of offending Bus by its driver. Admittedly, offending Bus was owned by the respondent and it was driven by its driver. Under these facts & circumstances and on the basis of police papers, claimants have proved the involvement of offending Bus and rash & negligent driving of offending Bus by its driver, by producing the sufficient and cogent evidence on record. In view of the discussion, I answer the Issue No.1 in the affirmative.”

The Tribunal has held that the charge-sheet is filed against the driver of the appellant - MSRTC and the Tribunal has held that the MSRTC driver was negligent in driving the bus.

4. As regards the income of the deceased, there is evidence of

the employer at Exhibit-41 and that the deceased was working as a driver on his Scorpio Vehicle since 2017 to 2019 and he was paying him salary of Rs.10,000/- per month. In view of the findings recorded by the Tribunal, the submission of the learned counsel that the tax returns of the employer did not show that the salary of Rs.10,000/- was paid to the deceased may not be of significance. The evidence of PW-2-owner of the vehicle, prima facie does not appear to be false. In view of the same, I permit all the major claimants to withdraw 65% of the compensation as directed by the Tribunal along with accrued interest thereon subject to the undertaking to the satisfaction of the Presiding Officer of the MACT, Pune. Interim Application No.10074 of 2024 is allowed and disposed of.

5. For the reasons stated in the Interim Application No.8626 of 2024, the delay of 64 days in filing the appeal is condoned. The interim application is allowed and disposed of. The appeal be registered.

5. The first appeal is admitted.

6. On admission, Mr. Pande, learned counsel, waives notice for respondent Nos.1 to 4.

7. Call for record and proceedings.

8. The stay to the impugned order, granted earlier, stands confirmed till the final disposal of the appeal. Interim Application No.8627 of 2024 stands disposed of.

(ARUN R. PEDNEKER, J.)