



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 742 OF 2021

Maharashtra State Road Transport
Corporation, Vahtuk Bhavan, Mumbai,
Through : The Divisional Controller,
M.S.R.T.C., Osmanabad. ... Appellant

Versus

Sushen s/o Navnath Shinde,
Age : 22 years, Occupation Nil,
R/o Wakarwadi,
Taluka and District Osmanabad. ... Respondent

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Mr. Anilkumar B. Dhongade, Advocate for the Appellant.

Mr. Manoj U. Shelke, Advocate for Respondent.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 30.07.2025

Pronounced on : 07.08.2025

JUDGMENT :

1. The Maharashtra State Road Transport Corporation (MSRTC) is hereby taking exception to the judgment and award dated 26.08.2019 passed by learned Member, Motor Accident Claims Tribunal, Osmanabad in MACP No. 333 of 2016, directing present appellant MSRTC to pay compensation claimed by present respondent on account of road traffic accident dated 24.06.2016.

2. Facts giving rise to claim petition are that, on 24.06.2016, Gopal Shinde was driving Luna bearing no. MH-25-AE/8763 while his cosine brother, i.e. present respondent (original claimant Sushen s/o Navnath Shinde) was the pillion rider. When they were in the vicinity of village Tugaon Pati, State Transport bus no. MH-20-BL-1060 coming from opposite direction gave dash to the Luna causing injuries to the claimant. Crime bearing no. 176 of 2016 was registered against driver of the bus.

3. Alleging negligence and rashness on the part of bus driver, respondent original claimant, aged 18 years, contended that at the time of accident, he was working in agricultural land and earning Rs.9,000/- per month and was the sole bread earner of the family. Because of accidental injuries, he suffered permanent disability and under various heads, set up a claim of Rs.24,89,000/- but restricted it upto Rs.1,00,000/-.

4. Claim was resisted by present appellant denying negligence on the part of the ST bus driver and also raising counter claim that Luna driver was negligent. Plea of non availability of driving licence, not wearing helmet, thereby violating rules of traffic were also raised apart form non joinder of necessary party for not naming the bus

driver personally. Claim of income and age was also refuted. Learned tribunal allowed the claim petition directing the appellant to pay compensation to the tune of Rs.10,16,440/- under the heads 'loss of earnings' and 'pain and sufferings'.

5. Feeling aggrieved by the above, original respondent MSRTC has filed the present appeal. The grounds raised in the appeal could be summarized as under :

Firstly, failure to prove rash negligent driving of ST bus driver; secondly, non-impleadment of bus driver; thirdly non-availability of driving licence of the rider of Luna.

6. Learned counsel for the respondent canvassed and supported the findings and prayed to dismiss the appeal.

7. Re-analyzed and re-appreciated the evidence. In support of the claim, present respondent seems to have examined himself at Exhibit 13 and also adduced evidence of doctor to prove permanent disability certificate at Exhibit 20. He also took recourse to and sought reliance on the FIR, spot panchanama and examined one Balaji Survase to prove his income.

8. As regards to rash and negligent driving of bus driver, copy of spot panchanama is specifically relied along with hand sketch map. On visiting the spot panchanama Exhibit 18, there is no manner of doubt that ST driver was solely responsible for the mishap. Considering the length and breadth of the road, ST driver was expected to be vigilant and aware of traffic of other vehicles. There is nothing to show that there was any fault on the part of Luna rider (claimant). Nothing adverse has been brought in cross of the claimant. Resultantly, finding about rash and negligent driving on the part of ST bus driver needs to be recorded.

9. In support of injury and disability, respondent-original claimant has adduced evidence of Dr. Ganesh Patil who has stepped into the witness box and has deposed that he examined the claimant and found percentage of permanent total disablement of 51% due to fracture and other injuries. This doctor has identified certificate of disability issued by him which is at Exhibit 20. In the light of such evidence of medical expert, there is no reason to disbelieve or discard injury and disability to the extent of 51% suffered by respondent.

10. Respondent put up a case that he was working in agricultural land and earning around Rs.9,000/- per month. In support of such earnings, he has examined one field owner, namely, Balaji Survase, who has deposed that claimant was working in his field and was getting wages Rs.300/- per day. In cross of said land owner, nothing adverse is brought on record to render his evidence doubtful so as to disbelieve the same.

11. As stated above, medical expert's evidence on the point of permanent disability to the extent of 51% has remained unshaken. Considering the same, the tribunal has rightly computed monthly income to be Rs.4,590/- (i.e. 51% of Rs.9000/-), which annually comes to Rs.55,080/-. Though there is no concrete proof of age, considering the age reflected in the affidavit to be 18 years, in view of the ratio laid down in ***Sarla Verma and Ors. Vs. Delhi Transport Corporation and Ors*** [(2009)6SC C 121] multiplier of 18 is rightly applied for computing loss of income to be Rs.9,91,440/- (55,080 x 18).

12. Though there is claim under distinct head of medical expenses, required evidence is lacking. However, in view of medical expert's evidence and though there is non availability of specific documents,

this Court finds that it was justified on the part of tribunal to grant compensation under the head 'pain and sufferings'.

13. Perused the judgment. The findings recorded seem to be in consonance with the evidence on record. No patent perversity or illegality is brought to notice except raising ground about breach of traffic rules or about non availability of driving licence. Appellant original respondent has not discharged the burden of making out a case to that extent so as to interfere. Hence, the following order :

ORDER

- I. The appeal is dismissed.
- II. The respondent-original claimant is permitted to withdraw the amount deposited by the appellant in this Court, with accrued interest thereon.

[ABHAY S. WAGHWASE, J.]