



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 242 OF 2002
WITH
CIVIL APPLICATION NO. 5403 OF 1997

The State of Maharashtra
through the Collector, Ahmednagar

2. The Executive Engineer
Majalgaon Canal Division No.1 ...Appellants
Aurangabad (Ori. Opps. 1 & 2)

Versus

1. Master Sudharam Dhananjay Maslekar
Age 9 years, (minor), through his
natural guardian mother No.2
2. Chitra Dhananjay Maslekar,
Age 33 years, Occ. Nil
R/o. Sakar Building, Opp. Kotala Colony,
Adalat Road, Aurangabad (Ori. Claimants)
3. Maharudra Vithalrao Vir
Age 33 years, Occ. Service (Ori. Opp. No.3)
R/o. Irrigation Colony, Aurangabad ...Respondents

...
A.G.P. for Appellant : Mr. D.J. Patil
Advocates for Respondent Nos. 1 and 2: Mrs. Charuta S. Deshmukh
alongwith Ms. Aishwarya Takale

AND
FIRST APPEAL NO. 905 OF 2002
WITH
CIVIL APPLICATION NO. 5405 OF 1997

The State of Maharashtra
through the Collector, Ahmednagar

2. The Executive Engineer
Majalgaon Canal Division No.1 ...Appellants

Aurangabad

(Ori. Opps. 1 & 2)

Versus

1. Rajendra Rangnath Sontakke,
Age major, Occ. At present Nil
R/o. Satbhau Mala, Ahmednagar (Ori. Claimant)
2. Maharudra Vithalrao Vir
Age 33 years, Occ. Service .(Ori. Opp. No.3)
R/o. Irrigation Colony, Aurangabad ...Respondents

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A.G.P. for Appellant : Mr. D.J. Patil

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 27th NOVEMBER 2025

ORAL JUDGMENT:-

1. These two appeals are preferred against the judgments and awards dated 20.09.1995 and 21.09.1995 passed by the learned Member, Motor Accident Claims Tribunal, Ahmednagar in M.A.C.P. No.125 of 1988 and 141 of 1988, respectively, thereby the claim petitions were partly allowed by awarding compensation of Rs.4,41,800/- and Rs.9,672/- in respective claim petitions, with interest at the rate of Rs.12% p.a. from the date of filing of the respective petitions till realization of the amount.

2. The claimants' case in brief is that on 7.1.1988, Dr. Dhananjay Maslekar and his friend Rajendra Sontakke went to Ahmednagar. They took delivery of a scooter. While they were

proceeding to Aurangabad, Dr. Dhananjay Maslekar was riding the scooter and injured Rajendra Sontakke was the pillion rider. When they reached village Shendi, a truck was going ahead of them. When they tried to overtake the said truck, an ambassador car bearing No. MXV-7544 of the appellants came from the opposite side and dashed to their scooter. Dr. Dhananjay Maslekar died on the spot and Rajendra Sontakke sustained permanent disability in the accident. The claimants claimed compensation by filing claim petitions and their claims were partly allowed.

3. The appellants i.e. original respondent Nos. 2 and 3 opposed the claim petitions on the ground that exorbitant amount of compensation is claimed. Dr. Dhananjay Maslekar was responsible for the occurrence of the accident, his contributory negligence was not considered. Therefore, the appellants were not liable to pay the compensation. It was prayed to dismiss the claim petitions.

4. Learned tribunal framed necessary the issues in both the claim petitions and awarded the compensation accordingly.

5. During the course of arguments, the learned AG.P. for the appellants pointed out the grounds of objections in the appeals, particularly that the claim of the claimants is not sustainable as it is a

case of contributory negligence.

6. The learned Tribunal held that the claimants proved the rash and negligent driving of respondent No.3. The claimants proved the death of Dr. Dhananjay Maslekar in the vehicular accident and the dependency of the claimants i.e. his wife and son.

7. In the claim petition No. 141 of 1988, the Tribunal also held that the claimant has proved that he sustained 15% permanent disability and therefore, is entitled to compensation.

8. As far as the riding of the scooter by Dr. Dhananjay Maslekar in rash and negligent manner is concerned, there is absolutely no evidence on record to show that he was riding it in a rash and negligent manner. The driver of the offending car is prosecuted for rash and negligent driving. It is not proved that Dr. Dhananjay Maslekar was riding that scooter in a rash and negligent manner. The Tribunal rightly considered principle that the bigger vehicle rider is responsible and also considered the principle of *Res Ipsa Loquitur* while appreciating the evidence on record, particularly the spot panchanama etc. Therefore, the Tribunal has rightly not deducted any amount for his contributory negligence.

9. Considering all these aspects and the income of Dr. Maslekar, the learned tribunal rightly held that the claimants are entitled to compensation of Rs.4,41,800/-. There is no any illegality and perversity in the impugned judgment and award while calculating the amount of compensation. Thus, there is no scope for interference in the impugned judgment and award in respect of first appeal No 242 of 2002.

10. As far as the first appeal No. 905 of 2002 is concerned, the claimant Rajendra Sontakke came with a case that he sustained 15% permanent disability. To prove the said disability he had adduced oral evidence and doctors evidence and learned Tribunal held that he was operated and his leg was put in plaster which was removed after a period of one month. Thereafter, his leg was plastered again and an X-Ray was taken at Sasoon Hospital, Pune, which issued a medical certificate showing that there were two fractures at tibia and fibuls and he also sustained other injuries. Thus, the learned tribunal rightly considered and held that the claimant Rajendra sustained 15% permanent functional disability.

11. The claimant Rajendra Sontakke claimed that he was serving with one R.T. Tijoriwala and getting a salary of Rs.397/- p.m. He was a welder and making frames of steel doors and windows.

Because of the permanent disability sustained by him, he has been removed from service. He had prayed for the compensation accordingly. The learned Tribunal rightly considered the monthly loss of income of the claimant of Rs.450/- with 12% interest. There is absolutely no illegality and perversity in the impugned judgment and award. No interference is warranted in it.

11. The appeals therefore, deserve to be dismissed. Hence, the following order:

O R D E R

- I. Both the appeals are dismissed with no order as to costs.
- II. Pending civil applications are disposed of.

(SANJAY A. DESHMUKH, J.)

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