



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1983 OF 2021

The Divisional Controller,
Maharashtra State Road Transport Corporation,
Taluka Ahmednagar,
District Ahmednagar.

... Applicant
[Original Respondent]

Versus

1. Shamrao Sahebrao Ithape,
Age : 50 years, Occ. Nil.
2. Sau. Kesharbai Shamrao Ithape,
Age : 49 years, Occ. Household,
Both R/o Devi Nimgaon,
Taluka Asti,
District Beed.

... Respondent
[Original Claimants]

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Mr. Anand D. Wange, Advocate for the Appellant.
Mr. Yuvraj V. Kakade, Advocate for the Respondents.

.....

**WITH
CROSS OBJECTION NO. 116 OF 2022
IN FIRST APPEAL NO. 1983 OF 2021**

1. Shamrao Sahebrao Ithape,
Age : 53 years, Occ. Nil.
2. Kesharbai Shamrao Ithape,
Age : 52 years, Occ. Household,
Both R/o Devi Nimgaon,
Taluka Ashti, District Beed.

... Appellants
[Original Claimants]

Versus

1. Maharashtra State Road Transport Co.,
Divisional Officer at Sarjepura,
Ahmednagar, Tq. & Dist. Ahmednagar.

2. Bhausahab Bapurao Dhavale,
Age 52 years, Occu. Service,
R/o. Pimparkhed, Tal. Jamkhed,
Dist. Ahmednagar. ... Respondents
[Orig. Respondents]

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Mr. Yuvraj V. Kakade, Advocate for the Cross Objectioners.
Mr. Anand D. Wange, Advocate for the Respondent No.1.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 30.09.2025

PRONOUNCED ON : 09.10.2025

JUDGMENT :-

1. Original respondent MSRTC takes exception to judgment and award dated 04.03.2020 passed in Motor Accident Claim Petition [MACP] No. 18 of 2019 granting compensation to respondents (original Claimants), who have also preferred Cross Objection challenging the same award to the extent of quantum of compensation.

2. Learned counsel for the appellant MSRTC in First Appeal No. 1983 of 2021 would submit that, present respondents instituted MACP No. 18 of 2019 under Section 166 of Motor Vehicles Act, 1988 [for short, the MV Act] claiming compensation on account of death of Dnyaneshwar, attributing negligence and rashness on the part of ST driver and seeking compensation in that regard. According to learned

counsel, going by the spot panchanama, deceased himself had come to the wrong side and had suffered accident. Therefore, according to him, contributory negligence also ought to have been considered by the Tribunal, but it failed to do so. Secondly, there was no sufficient proof of income of deceased, but excess notional income is considered. Learned counsel submitted that there is improper appreciation of evidence, and thereby invited attention of this Court to para 10 and 11 of the judgment and seeks interference.

3. Per contra, learned counsel for original claimants/cross objectioners would submit that, before the Tribunal, there was sufficient documentary evidence in the form of FIR and chargesheet regarding rashness and negligence on the part of ST Driver by showing utter disregard to the traffic condition on the road. Therefore, learned counsel supports the judgment and award of the Tribunal holding ST driver responsible. However, according to him, learned tribunal has failed to consider that there was ample evidence about deceased running a hotel and earning at least Rs.30,000/- per month. That, learned Tribunal has considered only Rs.10,000/- per month which is meager, and he urges to enhance the same to at least Rs.15,000/- to Rs.20,000/- per month.

4. Heard. Perused the record as well as impugned judgment dated 04.03.2020 passed by MACT, Ahmednagar in MACP No. 18 of 2019. The cross objectioners, who are parents of deceased Dnyaneshwar, set up above claim for compensation on the ground that, their deceased son was conducting hotel business and earning Rs.30,000/- per month and on account of unfortunate accidental death of their son, who was the sole bread earner, they urged compensation under various heads.

5. Learned Tribunal in the judgment, appreciated the contentions and the cases advanced by original claimants as well as original respondent MSRTC.

6. Considering the evidence of ST driver, FIR as well as spot panchanama, learned Tribunal recorded a finding that, driver of MSRTC was solely responsible for the accident. Perused the spot panchanama wherein there is reference of actual spot of accident to be about two feet inside the middle of the road.

7. Resultantly, submissions made before this Court that there was contributory negligence on the part of deceased, also cannot be

entertained. Resultantly, finding of tribunal fixing responsibility on ST bus driver solely, cannot be faulted at and interfered with.

8. Learned counsel for the cross objectioners urged reconsideration of evidence on the point of income of deceased. He had emphasized that deceased was running a hotel and was earning Rs.30,000/- per month. There was documentary evidence on the point of such hotel business and moreover, the Gramsevak, who had issued certificate to that effect, was also examined.

9. Re-analyzed the above evidence. There seems to be document as well as witness on the point of deceased Dnyaneshwar running a hotel, but there is no documentary or oral evidence regarding actual earning from the said business. Merely conducting hotel business without evidence of income is not sufficient. However, in such cases, it is common knowledge that, when a person runs hotel business and continues to run it, then he must be sufficiently earning from the same. Learned tribunal has considered notional income as Rs.10,000/- per month. Therefore, the same needs to be up-scaled to Rs.15,000/- per month and considering it as a base, further computation is required to be done.

10. Further, Tribunal has not awarded any compensation with respect to loss of Consortium. The claimants in the present case are father and mother of the deceased. They are entitled for compensation of Rs.40,000/- each towards loss of Consortium.

11. In view of the above discussion, in the considered opinion of this Court, the cross objectioners/claimants in MACP No. 18 of 2019 are entitled for following compensation :

Sr.	Heads	Amount (Rs.)
1.	Annual Income (15000 X 12)	Rs.1,80,000/-
2.	After addition of 40% towards future prospects (1,80,000 + 72,000)	Rs.2,52,000/-
3.	After deduction of 50% towards personal and living expenses	Rs.1,26,000/-
4.	Multiplier of 18 (1,26,000 x 18)	Rs.22,68,000/-
5.	Loss of Estate	Rs.15,000/-
6.	Funeral Expenses	Rs.15,000/-
7.	Loss of Consortium (40,000 X 2)	Rs.80,000/-
8.	Total compensation to be paid (22,68,000 + 15,000 + 15,000 + 80,000)	Rs.23,78,000/-
9.	Compensation awarded by the Tribunal	Rs.15,42,000/-
10.	Total enhanced compensation (23,78,000 – 15,42,000)	Rs.8,36,000/-

12. In the result, following order is passed :

ORDER

- I. First Appeal No. 1983 of 2021 is dismissed.
- II. Cross Objection No. 116 of 2022 is partly allowed with proportionate costs.
- III. The impugned judgment and award dated 04.03.2020 passed by the Member, MACT, Ahmednagar in MACP No. 18 of 2019 is modified to the extent of amount of compensation, which is enhanced from Rs.15,42,000/- to Rs.23,78,000/-.
- IV. The Respondent Nos. 1 and 2 in the Cross Objection No. 116 of 2022 to pay enhanced compensation of Rs.8,36,000/- to the claimants within 12 weeks from today, along with interest as awarded by the Tribunal.
- V. Modified award be prepared accordingly.
- VI. On deposit of the amount by the respondents, the claimants are permitted to withdraw the same.

[ABHAY S. WAGHWASE, J.]