



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

64 CIVIL APPLICATION NO. 6962 OF 2025
IN FAST/10583/2025

HIRALAL ATMARAM PATIL KHAIRNAR AND ANR

VERSUS

THE DIVISIONAL CONTROLLER MSRTC DHULE AND ANR

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Advocate for the Applicant : Mr. Mukul Shriram Kulkarni

Advocate for Respondent No.1:Mr. D.S. Bagul

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CORAM : SHAILESH P. BRAHME, J.

DATE : 25.08.2025

PER COURT :

. Heard both sides.

2. Applicants are seeking withdrawl of amount of Rs.15,38,333/- besides statutory deposits of Rs.25000/- deposited by the Respondent/corporation.

3. Learned counsel for the applicants submits that already tribunal held that there was a contributory negligence and deducted 20% of the amount of compensation. It is further submitted that in the disciplinary action, it has been disclosed that driver was driving the vehicle rashly and negligently. On the basis of notional income, quantum is arrived at which is just and reasonable.

4. Learned counsel for the respondents opposes the application and submissions stating that the quantum arrived at is exorbitantly high. Panchnama is overlooked as it is indicative of the fact that on

the left side of the road, there was a space and deceased could have saved himself. It is further submitted that there was contributory negligence and only 20% is deducted for contributory negligence which is perverse. It is further contended that deceased was not earning anything and notional income is incorrectly considered. It is further contended that there was no evidence on record to show that driver was rashly driving a bus with high speed.

5. I have considered rival submissions of the parties. I have gone through impugned judgment. In paragraph No.10 of the impugned judgment, a reliance is placed on the report at Exhibit-25 disclosing high speed of a bus and rash and negligent manner of driving. The theory that deceased was regular in services with Baliraja Agro Shop Ltd. has been discarded. On the basis of notional income, quantum is arrived at. It further reveals that already 20% of the amount is deducted holding the contributory negligence. The rival contentious issues can not be dealt with at the interlocutory stage. Ends of the justice would be met in permitting the applicants to receive 75% of the amount with accrued interest on furnishing undertaking.

6. Civil application is allowed partly permitting the applicants to receive 75% amount with accrued interest on furnishing undertaking to the satisfaction of the Registrar (Judicial) of this Court.

[SHAILESH P. BRAHME, J.]

vsj..