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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**FIRST APPEAL NO.337 OF 2017
WITH
CA/12571/2017 IN FA/337 OF 2017**

Maharashtra State Road Transport
Dhule, Tq. & Dist. Dhule,
Through its Divisional Controller. ... Appellant

Versus

Hiralal Tulshiram Patil,
Age: 55 years, Occu.: Agri.,
R/o. Ajang, Tq. & Dist. Dhule. ... Respondent

.....

Mr. Narayan Y. Chavan, Advocate h/f Mr. D.S. Bagul, Advocate
for Appellant
Mr. M.G. Kochar, Advocate for Mr. B.R. Waramaa, Advocate for
Respondent

.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 28 JULY, 2025

PRONOUNCED ON : 12 AUGUST, 2025

JUDGMENT :-

1. This appeal is at the instance of the M.S.R.T.C. Dhule, hereby taking exception to the judgment and award dated 31.03.2015 in M.A.C.P. No.1007 of 2009 filed by present respondent on account of accidental death of his buffalo-calf.

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BRIEF FACTS GIVING RISE TO THE APPEAL ARE AS UNDER:

2. On 12.02.2008 at Jalgaon-Dhule Road, a bus bearing No. MH-12/OH-8766 owned by present appellant and driven by its employee Dipak, who was allegedly driving the bus rashly and negligently, gave dash to a small buffalo-calf belonging to respondent/original claimant. The said buffalo-calf was hit at her head and calf died on the spot. The FIR of the incident was filed at Taluka Police Station, Dhule vide C.R.No.56 of 2008.

3. Respondent has set up the above claim before the Tribunal seeking compensation to the tune of Rs.6,54,800/-. Present appellant/original respondent appeared in the matter and resisted the claim by filing the written statement.

4. The necessary issues were framed by the Tribunal, and by judgment and award dated 31.03.2015, the claim petition was partly allowed, directing respondent to pay compensation to the tune of Rs.4,71,080/-, along with interest at the rate of 8% per annum.

Feeling aggrieved by the award dated 31.03.2015, the appellant/M.S.R.T.C. has taken exception to the above award by filing the instant appeal on various grounds spelt out in the appeal memo.

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5. Learned counsel for the appellant questions the impugned order on the ground that, the driver of the bus was not responsible, and no fault ought to have been attributed to him in absence of specific evidence to that effect. That, in fact, the buffalo-calf suddenly came across the road and suffered. He pointed out that, an inflated claim has been set up without demonstrating ownership of the live stock. That, learned Tribunal has awarded compensation without any concrete foundation and it is primarily based on assumptions and presumptions. That, the buffalo-calf was barely 1.5 years of age. That, learned Tribunal has computed the compensation by assuming that the buffalo-calf would grow into a fully matured buffalo and would give sufficient milk, which would fetch good income. Therefore, learned counsel urges for interference by allowing the appeal.

6. Per Contra, learned counsel for respondent/original claimant supported the judgment by pointing out that, the driver was rash and negligent and after thorough investigation, crime has been registered against the driver. It is pointed out that the age of the buffalo-calf was determined on the basis of the postmortem report. Learned counsel took this Court through

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paragraphs 6, 7, and 8 of the judgment and submitted that there is no dispute that the calf was a she-buffalo. Considering the duration of lactation and the expected lifespan, the learned Tribunal has rightly computed the income the claimant would have earned from the milk business. It is pointed out that, the prevailing rate per liter of milk at that time was also taken into account, and therefore, the learned counsel justifies the quantum awarded by the Tribunal.

7. After hearing both sides and on going through the papers, it is emerging that, there is no dispute that on 12.02.2008, an employee of the appellant was driving bus No. MH-12-OH-8766 on the Jalgaon-Dhule road, and the buffalo-calf suffered a head injury due to dash given by the said bus. Admittedly, crime has been registered bearing No.56/2008. The claimant, who filed the claim petition, set up a case that he is entitled to compensation for the loss of income that the deceased buffalo-calf would have yielded by giving milk. Apart from that, various amounts have been claimed as compensation under heads of funeral expenses, cost of litigation, etc. It appears that claim of around Rs.6,50,000/- has been set up.

8. After going through the FIR (Exhibit-10) and the spot panchanama (Exhibit-11), there are reasons to hold that the employee of the appellant i.e. driver was responsible for the accident. Death of the buffalo-calf admittedly had taken place due to a dash given by the bus. There is no serious challenge before the Tribunal about ownership of the buffalo-calf. Learned Tribunal has considered the age reflected in the postmortem report, which is usually taken as the basis in absence of concrete proof of age. There is no denial that, had the calf lived its natural life, it would have grown into a buffalo would have given milk and served as a source of income for the claimant. The rate per liter of milk prevailing in the vicinity where the claimant lived appears to have been taken into account. There is also no serious challenge to the same by the present appellant.

9. This Court has visited the paragraph wherein calculations are reflected and is of the opinion that, the same are reasonable and not exorbitant or exaggerated as is tried to put forth before this Court. The price that the buffalo-calf would have fetched, if it had been sold, was also taken into account apart from the compensation awarded for funeral expenses. Therefore, this Court does not find any perversity in the

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impugned judgment and award so as to interfere in the same.

Hence, I proceed to pass the following order:

ORDER

- (i) The First Appeal is dismissed.
- (ii) Civil Application No.12571 of 2017 is allowed in terms of prayer clause 'B'. Respondent/original claimant is permitted to withdraw the amount deposited by the Appellant/M.S.R.T.C. with accrued interest thereon. Civil Application is disposed of accordingly.

**ABHAY S. WAGHWASE,
JUDGE**

S P Rane