



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

**FIRST APPEAL NO. 475 OF 2025
WITH
CIVIL APPLICATION NO. 11996 OF 2024
AND
CIVIL APPLICATION NO. 1290 OF 2025**

Maharashtra State Road Transport
Corporation .. Appellant

Versus

Sumaiyya Mukhtar Shaikh and others .. Respondents

Shri Dnyaneshwar S. Bagul, Advocate for the Appellant.
Shri Shaikh Kayyum Najir, Advocate for the Respondent Nos. 1
to 5.

**CORAM : SHAILESH P. BRAHME, J.
DATE : 14TH JULY, 2025.**

FINAL ORDER :

. Heard both sides finally.

2. This appeal is directed against judgment and award dated 29.02.2024 passed by Member, Motor Accident Claims Tribunal, Aurangabad in M. A. C. T. No. 865 of 2023. The respondent Nos. 1 to 5, who are the dependents of deceased Mukhtar Shaikh are awarded compensation of Rs. 33,95,600/-. Appellant – Corporation has deposited Rs. 25,000/- towards statutory deposit as well as awarded amount with interest that is Rs. 36,03,368/-.

3. It's a death claim. Accident took place on 08.09.2023 when motorcycle of the deceased Mukhtar was given dash by the bus of the appellant – corporation. It is stated that he lost his life due to rash and negligent driving of the driver. CR. No. 0196/2023 was also registered against him. It is contended that deceased was 31 years old and skilled plumber. He use to earn Rs. 30,000/- per month. The respondent Nos. 1 to 5 are dependents.

4. Learned counsel Mr. Dnyaneshwar Bagul for the appellant adverted my attention to the issues framed by the Tribunal and reasons assigned for issue Nos. 1 to 3. He would submit that no reasons are assigned for answering issue Nos. 1 and 2 in affirmative. He would submit that for arriving at a quantum some reasons are given in para No. 13 and break up is given in para No. 14, but that would be redundant for fixing the liability on the appellant in absence of candid finding on issue No. 2. He would submit that matter needs to be relegated to the Tribunal for deciding it afresh. Reliance is placed on the judgment of the Gauhati High Court and this Court in the matters of Union of India and others Vs. Sh. P. Lalbiaka and others reported in (2016) 5 Gauhati Law Reports 692 and Manjulaben Shah and others Vs. Madhuriben Meghji Shah reported in 2018(4) Mh.L.J. 319.

5. Per contra, learned counsel Mr. Shaikh appearing for the respondents/claimants supports impugned judgment and award. It is submitted that the text of the judgment is sufficient to infer rash and negligent driving and appellant is liable for payment of

compensation. It is submitted that there is no need to remand the matter as there is sufficient material on record to decide the issue No. 2. He would further submit that police papers of CR. No. 0196/2023 are already on record, which corroborate rash and negligent driving of employee of the appellant. He would submit that undue hardship would be caused to the claimants. Reliance is placed on the **judgment dated 14.07.2023 in Appeal From Order No. 29 of 2017** of the Coordinate Bench in the matter of **Bashirkhan Samsher Khan Pathan (deceased) and others Vs. Ibrahim Khan Aliyarkhan Pathan and others.**

6. I have considered rival submissions of the parties. There is no dispute that it's a death claim arising out of accident having taken place on 08.09.2023. The deceased was riding motorcycle, which collided with bus of the appellant. After accident, offence was registered against the driver.

7. Following issues are framed by the Member of the Tribunal:

- (1) Whether the claimants prove that deceased Mukhtar Rashid Shaha died in a motor vehicle accident held on 08.09.2023, at about 13.30 hours, near Harsul Naka, in front of Madhura Lawns, on Fulambri to Aurangabad Road ?
- (2) Whether the claimants prove that the accident occurred

because of rash and negligent driving of the driver of M.S.R.T.C. Bus bearing registration No. MH-20/BL-3377 ?

- (3) Whether the claimants are entitled for compensation ? If yes, to what extent and from whom ?

8. Issue Nos. 1 to 3 were commonly considered. So far as issue No. 1 is concerned, there can be no dispute that it was a vehicular accident and death was arising out of the same. Para Nos. 9 to 11 show that learned Member considered and discussed registration of the crime, documents produced on record and the depositions of the witnesses. In para No. 12, the quantum of compensation and judgments relied by the appellant, depositions of the witnesses and the documents in support of the quantum are considered. The quantum is determined in para No. 13 and 14 of the judgment. It is rightly contended by the learned counsel Mr. D. S. Bagul for the appellant that no reasons are assigned for answering issue No. 2 referred above. Though there was evidence on record in the form of police papers, deposition of witnesses, no express findings are recorded by the Tribunal.

9. Pertinently, issue No. 2 goes to the root of the matter and it decides liability of payment of compensation. It is rightly contended that without there being any reasons liability is imposed on the appellant. I am of the considered view that impugned judgment suffers from the perversity.

10. The discussion and reasons for arriving at quantum would not rectify the fundamental defect of imposing liability on the appellant without reasons. I cannot be oblivious of the fact that liability to make payment depends on the discussion and the reasons for issue No. 2. Three contingencies are probable for answering the said issue namely, driver is liable or not liable for rash and negligent driving, contributory negligence or composite negligence. I am of the considered view that matter needs to be relegated to the Tribunal.

11. The finding to issue No. 2 by assigning reasons is likely to affect the liability of payment of compensation. If this Court proceeds to examine issue No. 2 instead of remanding the matter to the Tribunal, then either of the parties are likely to lose one forum to challenge the finding. Both the learned counsels have fairly conceded that they do not want to lead any further evidence. Hence matter can be expedited permitting the parties to canvass their submissions.

12. I am equally aware of the hardship sustained by the claimants. The appellant – corporation has deposited amounts of Rs. 25,000/- and Rs. 36,03,368/-. Though quantum of compensation is to be decided afresh, the same has been ensured. It is made clear that I have not expressed any opinion on merits of the matter and it would be left to the discretion of the Tribunal to come to the conclusion.

13. Reliance is placed by the appellant on the judgment of the

Gauhati High Court in the matter of Union of India and others Vs. Sh. P. Lalbiaka and others (supra). I have gone through para Nos. 11 and 12 of the judgment, which inter alia refers to judgment of the Supreme Court. I have also gone through judgment of the Coordinate Bench in the matter of Manjulaben Shah and others Vs. Madhuriben Meghji Shah (supra). Both of these judgments underline significance of assigning the reasons. I propose to adopt the same course by relegating the parties before the Tribunal.

14. Learned counsel Mr. Shaikh for the respondents/claimants seeks reliance on the judgment of the Coordinate Bench in the matter of **Bashirkhan Samsher Khan Pathan (deceased) and others Vs. Ibrahim Khan Aliyarkhan Pathan and others** (supra) to buttress that remand of the matter is not necessary. In that case suit was filed for declaration and possession, which was decreed by the Trial Court. Trial Court rendered findings and decided against the then plaintiff. The judgment was assailed before the Appellate Court and order of remand was passed. It was held that issue of possession was not framed and the entitlement of the parties to the properties was required to be decided. None of the parties had prayed for remand before the Appellate Court. The findings are distinguishable. In the present case I have already recorded that the findings on issue No. 2 have bearing over the liability to pay compensation. In the case at hand issue was rightly framed, but not recording the reasons would vitiate the order. Hence the judgment cannot be made applicable to the present case.

15. For the reasons recorded above, I pass following order.

ORDER

- (i) First Appeal is allowed.
- (ii) The impugned judgment and award dated 29.02.2024 passed in M.A.C.P. No.865/2023 is quashed and set aside and the matter is relegated to the Motor Accident Claims Tribunal, Aurangabad for deciding it afresh by assigning reasons, after hearing submissions of the parties.
- (iii) Both the parties undertake that they would not adduce any further evidence.
- (iv) The decision shall be taken within three month from today.
- (v) Office is directed to transmit the amount deposited in this Court to the Motor Accident Claims Tribunal, Aurangabad.
- (vi) Parties shall appear before the Motor Accident Claims Tribunal, Aurangabad on 21.07.2025.
- (vii) Record and Proceedings shall be sent back to the Motor Accident Claims Tribunal, Aurangabad.
- (viii) Civil Applications are disposed of.

[SHAILESH P. BRAHME J.]

bsb/July 25