



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 2174 OF 2024

Komal Goroba Jadhav,
age 15 yrs, occ. Nil

Through Her Maternal Aunt Ashatai Navnath More

VERSUS

MSRTC Through It's Divsional Controller Latur And Others

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Advocate for Appellant : Mr. R.R. Deshmukh

Advocate for Respondent 1 : Mr. D S Bagul

Advocate for Respondents 2-4 : Mr. Patel Fayaz K.

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CORAM : S. G. CHAPALGAONKAR, J.

Reserved on : March 26, 2025

Pronounced on : April 03, 2025.

FINAL ORDER :-

1. The appellant/original claimant no.2 aggrieved by assessment of compensation under award dated 20.12.2008 passed by the Motor Accident Claims tribunal, Latur in MACP No.279 of 2007 filed this appeal seeking enhancement of compensation under section 173 of the Motor Vehicles Act.

2. Appellant is one of the claimant in MACP no.279 of 2007 which was instituted under section 166 of the Motor Vehicles Act claiming compensation towards death of Goroba Jagannath Jadhav in motor vehicular accident dated 1.8.2007. At the time of accident, Goroba was proceeded on his

motorcycle bearing registration no.MH-24/N-2784 from Latur towards Bodka. His motorcycle collided with S.T. Bus bearing registration No.MH-20/D-4968, which was coming from Ahmedpur towards Latur in opposite direction of motorcycle. Goroba sustained fatal injuries in the said accident. The claim was instituted before the Tribunal at Latur under section 166 of the Motor Vehicles Act attributing negligence against bus driver. Respondent/MSRTC contested the claim alleging contributory negligence of Late Goroba/motor cycle rider. The claimants relied upon police papers to prove their case. Respondent/MSRTC relied upon evidence of the bus driver. Tribunal, upon evaluation of the evidence held that accident occurred due to contributory negligence of late Goroba/motorcycle rider, DW-1 Vikram Nagtilak/bus driver and finally passed an award of Rs.3,40,000/- in favour of the claimants.

3. Present appeal was instituted alongwith the application to condone the delay of 5010 days which has been condoned vide order dated 16.7.2024.

4. Mr. Deshmukh, learned advocate appearing for the appellant submits that the Tribunal recorded erroneous finding as to contributory negligence of Late Goroba, who was riding

motorcycle as per traffic rules. He submits that FIR was registered against bus driver. Tribunal erroneously drawn inference of contributory negligence on the basis of contents of spot panchnama. Mr. Deshmukh would further submit that Tribunal has not granted adequate compensation in tune with settled principles of law. Nothing is awarded towards future prospects, loss of consortium, etc.

5. Per contra, Mr. Bagul, learned advocate appearing for respondent/MSRTC submits that finding recorded by the Tribunal is based on appreciation of evidence. Contributory negligence of deceased can be inferred from contents of police papers. Bus driver stepped into witness box and explained circumstances leading to the accident. He would further submit that assessment of the compensation is as per principles of law prevailing at the relevant time.

6. I have considered the submissions advanced by the learned advocates appearing for the respective parties.

7. It is not in dispute that accident occurred between bus and motorcycle. Both the vehicles were approaching each other from opposite direction. Rule of road traffic states that

vehicle driver shall maintain his left side and make a way to pass on the vehicle coming from the opposite direction. In the present case, perusal of spot panchnama clearly reveals that accident occurred on center line of Nanded-Latur road. Position of the bus shows that it was on left side. Motorcycle is shown laying at the midline. Driver of bus entered in the witness box and explained that motorcycle rider was making attempt to overtake a jeep and in that attempt it collided to bus. Explanation tendered by bus driver is justifiable looking to contents of the panchnama. It is true that in motor accident claims, preponderance of probability is rule for appreciation of evidence. Inquiry is summary in nature and claimant need not prove their case beyond reasonable doubt. However, when both the parties are relying upon the same set of documents and reasonable inference as to negligence of both the vehicle drivers can be drawn with support of direct evidence in the form of statement of bus driver, conclusion drawn by the Tribunal as to contributory negligence of bus driver and motorcycle rider need not be interfered with.

8. So far as assessment of compensation is concerned, Tribunal, on evaluation of the evidence, concluded

that deceased was drawing monthly salary of Rs.5,000/- p.m. on the basis of evidence of CW 2 Vishal Gojamgunde. He was aged about 25 years. There were four dependents on his income. In that view of the matter, applying principles of law espoused in the case of **National Insurance Company Limited Versus Pranay Sethi & Ors. (2017) 16 SCC 680** and **Magma General Insurance Company Limited Versus Nanu Ram Alias Chuhru Ram & Ors. reported in (2008)18 SCC 130** compensation needs to be re-assessed as follows :-

Sr. No.	Heads	Amount
1.	Monthly income of the deceased Rs.5,000 x 12 (annual income)	Rs.60,000/-
2.	Addition of 40% towards future prospects	Rs.84,000
3.	Deduction of 1/4th towards personal and living expenses	Rs.63,000/-
4.	Multiplier of '17' 63,000 x 17	Rs.10,71,000/-
5.	Towards loss of consortium Rs.25,000/- x 4 (since accident occurred in 2007)	Rs.1,00,000/-
6.	Funeral expenses + loss of estate (Rs.15,000 + Rs.15,000)	Rs.30,000/-
7.	50% amount deduction towards contributory negligence of deceased. Rs.12,01,000 – Rs.6,00,500/-	Rs.6,00,500/-
	Total	Rs.6,00,500/-

(Rs. Six Lakh Five Hundred only)

9. Although, claimants are held entitled for enhanced compensation, looking to the fact that, present appeal is filed with delay of 5010 days, this Court do not find that they are entitled for interest on enhanced compensation in terms of section 171 of the Motor Vehicles Act for the delayed period. Therefore, their entitlement for interest shall be restricted for the period from **24.9.2007 to 20.12.2008 and 16.7.2024 till realization of the amount.** In the result, following order is passed.

ORDER

- i. First Appeal is partly allowed.
- ii. The judgment and award dated 20.12.2008 passed by the Motor Accident Claims Tribunal, Latur in M.A.C.P. No.279 of 2007 is hereby **modified.**
- iii. The Respondent/M.S.R.T.C. shall pay total compensation amount of Rs.6,00,500/- (Rs.Six Lakh Five Hundred only) to the claimants alongwith interest @ 7.5% p.a. from **24.9.2007 to 20.12.2008 and 16.7.2024** till realization of the amount.
- iv. The compensation amount paid/disbursed as per the award passed by the Tribunal be appropriated.
- v. Award be drawn up on payment of deficit court fees, if any.

- vi. Respondent/MSRTC shall deposit the compensation amount within a period of three months from the date of this order, which shall be directly disbursed in the Bank Account of claimants in Nationalized Bank through NEFT.
- vii. First appeal stands **disposed of**. Pending civil application, if any, also stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE

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aaa/-