

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.941 OF 2024

Maharashtra State Road Transport Corporation,
Nashik Division, through its Divisional Controller,
N.D.Patel Road, Shingada Talao, Nashik.

Appellant

versus

Sanket Dattatraya Mistri, Age 36 years,
Occ.Service, R/o.Plot No.22, Survey No.908/01,
Matoshri Mauli Nagar, Pathardi Phata, Nashik.

Respondent

Mr.Prathamesh Mandlik i/by Mr.Nitesh Bhutekar for Appellant.

Mr.Rajan S.Pawar for Respondent.

CORAM: AARTI SATHE, JJ.

DATE: 2nd December 2025

ORAL JUDGMENT :

1. This Appeal challenges the Judgment and Award dated 14th January 2020 (hereinafter referred to as the Impugned Judgment and Award) passed by the Motor Accident Claims Tribunal, Nashik, whereby the Appellant was directed to pay a compensation of Rs. 90,429/- (Rupees Ninety Thousand Four Hundred Twenty-Nine), including No-Fault Liability to the Respondent with interest at the rate of 7% p.a. from the date of the application till its realization.

2. The brief facts are as follows:-

i. The Respondent in the present appeal is Mr. Sanket Dattatraya Mistri. The Motor Accident Claims Tribunal, Nashik has inadvertently stated in paragraph 2 of the impugned Judgment and Award that Mr. Vinay Bhaskar Khairnar is the Respondent. The court has, after confirmation from the learned

counsel for the Respondent confirmed that Mr. Sanket Dattatraya Mistri is the Respondent in the present Appeal and the original claimant in Motor Accident Claim Petition;

ii. On 29th August 2017, at about 1:30 A.M. in the morning Mr. Sanket Dattatraya Mistri was proceeding to Pune in ST Bus bearing No. MH-14-BT-4351. When the ST bus was within the limits of Narayangaon there was a light drizzle. The driver of the ST bus was proceeding in high speed, negligently and without paying heed to the road ahead dashed into a tempo bearing No. MH-17-T-4199. On account of the dashing of the ST bus into the aforesaid tempo, the Respondent got a head injury, mild SAH right occipital parietal region, fracture to mandible and fracture on the left frontal sinus. This accident happened in spite of the fact that the tempo driver who had parked his tempo at the side, had taken adequate precautions while fixing the puncture by placing stones, and also switching on the indicator making the parked tempo visible;

iii. On account of the aforesaid accident, the crime was registered at Narayangaon Police Station for offences punishable under Sections 304A, 337, 338, 427 of Indian Penal Code, 1860 and Section 184 of the Motor Vehicles Act, 1988.

iv. The Respondent was preliminarily treated at Siddhi Multi Specialty Hospital, Narayangaon, and thereafter shifted to Apollo Hospital, Nashik. The Respondent was advised diet food for 3 months and he incurred expenses of Rs, 1,00,000/- for medicine, operation, doctor bill, diet, travel, attendant charge, etc. The Respondent was a professor at Sinhgad Institute, Pune and drawing a salary of

Rs. 72,000/- per month. On account of the aforesaid accident, the Respondent had to take leave from his job and it his contention that he suffered pain, sorrow, physical and mental torture, loss of income, and unnecessary expenses due to the aforesaid accident. The Respondent therefore filed a claim in the Motor Accident Claims Tribunal, Nashik, claiming an amount of Rs. 2,25,000/- on all counts including pecuniary and non-pecuniary losses.

v. On the aforesaid claim, the Motor Accident Claims Tribunal, Nashik, passed the impugned Judgment and Award, which is the subject matter of challenge in the present Appeal.

vi. The Appellant had, along with the present appeal, filed Interim Application (ST) No. 6956 of 2021, praying for ad-interim stay to the execution, operation, and implementation of the impugned Judgment and Award. This court had, by order dated 5th October, 2021 granted ad-interim relief and stayed the execution, operation, and implementation of the impugned Judgment and Award, subject to the deposit of the entire amount of compensation along with interest accrued thereon within a period of four weeks from the order in the Motor Accident Claim Tribunal, Nashik.

3. In the above backdrop, I proceed to decide the aforesaid challenge mounted in the present appeal against the impugned Judgment and Award.

4. Learned Counsel on behalf of the Appellant has submitted that the impugned Judgment and Award has been passed without considering the oral testimony of the driver of the Appellant ie. Mr.Santosh Jaisingh Guldagad, who was the eyewitness to the said accident. He further submitted that the said accident

was caused due to the negligence of the tempo driver, as he had parked the tempo in the middle of the road without any proper parking lights, on account of which the driver of the Appellant Santosh Jaisingh Guldagad was unable to see the tempo. He further contended that the owner/driver of the tempo should have been made party to the proceedings before the Motor Accident Claims Tribunal, Nashik and therefore the claim of the Respondent ought to have been dismissed on account of non-joinder of necessary party. He further submitted that since the accident was caused on account of the negligence of the tempo driver who had parked the car in between the road to remove the puncture, the principle of contributory negligence had to be applied and the tempo driver would also have to be made liable to pay the compensation to the Respondent, if at all payable. On the aforesaid submissions learned counsel on behalf of the Appellant submitted that the impugned Judgment and Award needs to be set aside.

5. On the other hand, learned counsel on behalf of the Respondent submitted that the order passed by the Motor Accident Claims Tribunal, Nashik was a well-reasoned order and did not suffer from any infirmity and therefore had to be upheld. It was his submission that the claim amount which had been granted by the Motor Accident Claims Tribunal, Nashik was a correct amount and was justifiable in the facts of the present case.

6. I have gone through the records and the impugned Judgment and Award and also considered the submissions made by the learned counsels on behalf of the Appellant and Respondent, and I am of the view that the impugned Judgment and Award is a well-reasoned award passed after taking into consideration all the facts

and the evidences which were led before the Motor Accident Claims Tribunal, Nashik. I come to the aforesaid decision on the basis of the following reasons:-

i. The Motor Accident Claims Tribunal, Nashik, after examining the spot panchnama, and after relying on the examination-in-chief of the driver Santosh Jaisingh Guldagad has rightly come to the conclusion that the burden of establishing that the accident took place because of the negligence of the driver of the offending vehicle i.e. S.T bus in the present appeal, stood discharged by the Respondent, inasmuch as in cases relating to motor accident claims the said burden needs to be discharged by the claimant and is on the basis of preponderance of probabilities;

ii. Further the Motor Accident Claims Tribunal, Nashik has also taken into consideration the FIR filed by Ajay Laxamn Gorad PSI attached to Narayangaon Police Station, Pune, wherein statements of co-passengers of the Respondent were recorded, who also deposed that the driver Santosh Jaisingh Guldagad was driving the S.T bus negligently. The Motor Accident Claims Tribunal, Nashik has also given a categorical finding that the indicator lights of the tempo which was parked at the side for removing a puncture, had placed stones as matter of precaution and also switched on the indicator lights;

iii. The Motor Accident Claims Tribunal, Nashik has also referred to Section 15 of the Road Regulations, 1989, which mandates that driver of motor vehicle parking on the road shall park it in such a way that it does not cause or is not likely to cause danger, obstruction, or undue inconvenience to any other road user and the manner of parking is indicated by any sign board or markings on the

roadside when the vehicle is parked. The Motor Accident Claims Tribunal, Nashik therefore came to the conclusion that the tempo driver had followed the rules as envisaged in Section 15 of the Road Regulations, 1989 and hence no negligence could be attributed to the tempo driver, and the entire accident was on account of the negligence of the driver of the Appellant i.e. Santosh Jaisingh Guldagad;

iv. The Motor Accident Claims Tribunal, Nashik also recorded a finding that the spot panchnama is in consonance with the contents of the FIR. It has also returned a finding that, the fact that after the collusion the tempo climbed the divider and subsequently tilted on the bus showed that the bus driver was in high speed. Further it has also made a finding that the tempo driver had placed stones and switched on the indicator lights. The Motor Accident Claims Tribunal, Nashik has therefore rightly come to the conclusion that the accident has been caused because of the negligence of the Appellant's driver.

v. On the issue of compensation to be awarded to the Respondent, the Motor Accident Claims Tribunal, Nashik has rightly come to the figure of compensation after appreciating that the Respondent had placed on record medical bills of Siddhi Multi-Specialty Hospital, Bhagwati Super Specialty Indoscopy Hospital, Manchar Diagnostic Centre Pvt. Ltd., and Pharmacy bills of Shri Gajanan Pharmaceuticals and the Apollo hospital. The bills have not been found to be false and fabricated. The veracity of these bills was also not called in doubt or challenged by the Appellant before Motor Accident Claims Tribunal, Nashik. The Motor Accident Claims Tribunal, Nashik has also taken into consideration that the Respondent suffered fracture injuries and hence suffered pain for which he had to

incur hospitalization expenses, attendant expenses, and other consequential expenses, i.e., being on a special diet, etc. In view thereof the Motor Accident Claims Tribunal, Nashik has rightly ordered compensation amount of Rs. 90,429/- (Rupees Ninety Thousand Four Hundred Twenty-Nine), including No-Fault Liability with interest therein at the rate of 7% p.a. from the date the application till its realization.

vi. It has been held by the Apex Court in **Chaus Taushif Amliya etc. Vs. Memon Mahmmd Umar Anwarbhai and others¹**, as well as in **Kajal Vs. Jagdish Chand and others²** that attendant expenses and medical expenses are to be awarded to the Claimant and those are to be calculated commensurate to the nature of pain and suffering, its extent, and duration. In the facts of the present case the Motor Accident Claims Tribunal, Nashik has considered all the above and has rightly arrived at the figure of Rs.90,429/- along with interest and in my view therefore, no fault can be found insofar as the impugned judgment and award passed by the Motor Accident Claims Tribunal, Nashik is concerned.

vii. In my view, therefore, the aforesaid impugned Judgment and Award has been passed on a proper appreciation of the evidence and the facts of the case. It is further stated that the amount awarded through the impugned Judgment and Award is just and not exorbitant and thus warrants no interference by the Court.

7. In view thereof, the appeal filed by the Appellant is dismissed. Respondent is at liberty to withdraw the amount awarded by way of impugned judgment and award along with interest deposited by the Appellant with the Motor Accident

¹(2020)-4-SCC-413

²2023-SCC OnLine-SC-148

Claims Tribunal, Nashik as well as in this Court from the date of application till realization. If the amount of award has not been deposited in the Motor Accident Claims Tribunal, Nashik by the Appellant or in this Court, then the Appellant shall pay the amount of award within a period of three weeks from the date of uploading of this order, as awarded by the impugned judgment and award along with interest @7% p.a from the date of application till realization to the Respondent.

8. Appeal dismissed. No costs. .

(AARTI SATHE, J.)