

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.1189 OF 2024

Maharashtra State Road Transport Corporation,	}	
Thr. The General Manager, Vahatuk	}	
Bhavan, Belasis Road, Mumbai Central,	}	
Mumbai	}	Appellant

Versus

Smt.Kunda Baliram More,	}	
Aged about 50 years,	}	
R/o. Adgaon, Taluka, Shrivardhan,	}	
District-Raigad-402003.	}	Respondent

**WITH
CROSS OBJECTION (ST) NO.25327 OF 2025**

Smt.Kunda Baliram More,	}	
Aged about 50 years,	}	
R/o. Adgaon, Taluka, Shrivardhan,	}	
District-Raigad-402003.	}	Appellant

Versus

Maharashtra State Road Transport Corporation,	}	
Thr. The General Manager, Vahatuk	}	
Bhavan, Belasis Road, Mumbai Central,	}	Respondent
Mumbai		

Mr.Manjeet Lotankar h/f Dhananjay Ranaware, for the Appellant.

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Mr.Vasant N. More, for the Respondent.

CORAM : R.M. JOSHI, J.

DATE : 20th NOVEMBER 2025

ORAL JUDGMENT :

. The Maharashtra State Road Transport Corporation ('MSRTC' for short) filed Appeal under Section 173 of the Motor Vehicle Act, ('M.V. Act' for short) taking exception to the judgment and award dated 10th July 2023 passed in Application No.1477 of 2018 filed under Section 166 of the M.V. Act. Smt.Kunda Baliram More (Claimant) filed Cross Objection for enhancement of the compensation.

2. The facts which lead to the filing of this Appeal are recorded in brief as under :-

On 28th April 2018 Claimant was travelling in MSRTC Bus No.MH-20-BL-3295. It is her claimed that, the bus in which she was travelling was proceeding solely and by following the traffic rules. It is alleged that, another bus of MSRTC Bus No.MH-14-BT-4909 came from opposite direction and while overtaking another bus in high speed, came to the

wrong side of the road and dashed to the bus in which the Claimant was travelling. In the said accident, the Claimant sustained fracture of tibia fibula right leg, fracture of femur shaft, left tibia fracture, traumatic amputation of distal phalanx of 2nd toe etc. It is her further claim that, due to the said injuries her right leg below knee was amputated. She therefore, claims to have suffered permanent partial disability. According to Claimant, she was aged about 50 years and was serving as a Peon at Soni High School, Shrivardhan, Raigad and she was required to tendered resignation on account of her ill health. She spent Rs.1,50,000/- towards hospitalization and medical expenses on different heads she claims compensation of Rs.75,00,000/-.

3. MSRTC filed written submission denying the allegations and contentions of the Claimant. It is claimed that, the Claimant was not sitting properly in the bus, therefore, injuries are caused to her and she is responsible for the same. The Trial Court framed issues at Exhibit-12. The Claimant led evidence of Dr.Naresh Khanna at Exhibit-23, Orthopedic Surgeon, Dr.Radha Raman Kumar, Exhibit-26 Consultant

Prosthetic & Orthopedist and Mr. Jalinder Gulab Pote, Head Master of Mohanlal Soni Vidyalay at Exhibit-31. MSRTC led evidence of Govind Gutte, driver of the ST bus in which the Claimants was travelling. The learned Tribunal granted compensation of Rs.47,66,182/- with interest @ 7.5% per annum. Being aggrieved by the said judgment and award MSRTC filed Appeal and Claimant sought enhancement by filing Cross-Objection.

4. The learned counsel for MSRTC submits that the Tribunal has failed to take into consideration the fact that, the Claimant has not resigned from service on account of disability but for her personal reason. It is submitted that, since, there is no evidence to indicate that, there is loss of income for the Claimant, the Tribunal committed error in granting compensation to that effect. With regard to the compensation granted for actual loss of income, it is contented that, the Claimant was on leave and was paid for the same by the employer and hence no compensation in that regard was required to be granted.

5. It is further argued that, though, the learned Tribunal

has granted compensation for prothesis to the extent of Rs.5 lakhs, as admitted by the Claimant she had never gone for any artificial limb. It is his submission that, in absences of any such evidence, the grant of compensation under the said head is not justified. On the point of quantum compensation granted, it is argued that, the Tribunal has accepted the permanent partial disability of the Claimant on higher side and since the compensation is excessive, it deserves interference.

6. The learned counsel for the Claimant supported the impugned judgment and award with rider that, the Tribunal ought to have accepted permanent partial disability of the Claimant to the extent of 80% as assessed by Dr.Naresh Khanna. It is however his submission that, the Tribunal has also committed an error in not granted adequate compensation for attendance charges. It is his submission that, the claim therefore, deserves enhancement.

7. Insofar as the occurrence of the accident, as well as injuries caused to the Claimant in the accident so also her treatment is not in dispute. Further, the Claimant has

substantiated by evidence on record that on account of the injuries sustained in the accident her right leg below knee was required to be amputated.

8. As far as the contention of MSRTC with regard to the negligence on the part of the Claimant is concerned, admittedly, the Claimant was a passenger in the bus. Thus, she cannot be held responsible for the occurrence of the accident in any manner whatsoever. Though it is sought to be argued that, the Claimant was not sitting properly in the bus and therefore, she sustained injuries, there is absolutely no evidence on record to indicate so. Even otherwise when the Claimant has sustained injuries as a passenger in the bus on account of occurrence of the accident, she cannot be held negligent. The contention of MSRTC, therefore, deserves no acceptance.

9. The Claimant was aged about 50 years, at the time of the occurrence of accident and was working as a peon the school. She suffered amputation of her right leg below knee. There is nothing on record to show that, or any other reason than the said disability for which Claimant was required to obtain voluntary

retirement. The Claimant was earning Rs.30,000/- per month and on retirement her income is certainly reduced. Thus this is a case wherein on account of disability her income is affected.

10. The Claimant examined Dr.Khanna, who assessed the disability of the Claimant to the extent of 80%. The learned Tribunal dealt with the said issue in Paragraph No.32 to 25 and recorded cogent reason for holding that the disability of the Claimant needs to be accepted to the extent of 60% occupational disability. It is pertinent to note that, the evidence on record indicates that, there is amputation below knee of right leg. However, that cannot be construed as complete disability. Having regard to the nature of the disability, her functional disability to be not more than 60% as held by the Tribunal. In the facts of the case, and having considered evidence on record, this Court finds the reasoning recorded by the Tribunal for arriving at such a conclusion is just and proper requiring no interference therein. The Tribunal after considering the age of the Claimant and by applying appropriate multiplier has arrived at quantum of compensation of sustainment of loss due to the disability. The

determination of the said compensation is just and proper.

11. The Claimant has led evidence of doctor who specifically states about Claimant requiring artificial limb. Even in absence of any such evidence of the Medical Officer, it cannot be said that, after the amputation of the leg below knee, the Claimant would not require an artificial limb to make her life little easier, if not completely normal. The evidence of Dr.Radha Raman Kumar, Consultant Prosthetic indicates that, the said prothesis would cost more than Rs.2,50,000/- and life of such prothesis is 5 to 6 years with maintenance of Rs.10,000/- to Rs.20,000/- per annum. In the cross-examination of this witness nothing is brought on record to discard his testimony in this regard. The only submission sought to be canvassed on behalf of the MSRTC in that, the Claimant has admitted in cross-examination for having not gone for artificial limb. In this regard her testimony indicates that, she could not get it for want of finance. That does not mean that the Claimant would not require any artificial limb. In the light of the factum of amputation and medical evidence indicates cost involved in artificial limb, this

Court find, no unreasonably in the computation granted on that head.

12. The above discussion indicates that, the Appellant has failed to make out any case to cause interference in the impugned judgment and award and consequently, the Appeal deserves to be dismissed.

13. Coming to the cross objection of Claimant for enhancement of the compensation, as discussed herein above, the Tribunal after considering the permanent partial disability and its nature has rightly held that, there is 60% occupational disability and granted compensation to the Claimant. This Court finds no substance in the contention of the Claimant that the said disability needs to be accepted to the extent of 80%.

14. As far as the enhancement of attendance charges is concerned, there is no evidence led by the Claimant to indicate that, she is entitled for in any thing more that, granted by the Tribunal, hence cross-objection also deserves no consideration.

15. In view of the above, Appeal as well as Cross-Objection stand dismissed.

16. In view of the disposal of the Appeal and Cross-Objection, all pending Applications are disposed of.

(R.M. JOSHI, J.)