

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 2221 OF 2025

Maharashtra State Road Transport Corporation, ...Appellant
Through Divisional Controller.

Versus

Smt. Sunita Jayprakash Chauhan ...Respondent

Mr. Nitiesh Bhutekar a/w Mr. Prathamesh Mandlik, for the
Appellant.

Ms. Harshada Shrikhande, for the Respondent.

CORAM: R. M. JOSHI, J.

DATED: 12th MARCH, 2026

PC:-

1. By consent of both the sides heard finally at the stage of admission.
2. This Appeal is filed under Section 173 of the Motor Vehicle Act takes exception to the Judgment and Award dated 9th January, 2023 passed in Motor Accident Claim Petition No. 682 of 2016, whereby the death claim came to be allowed directing MSRTC to pay compensation of Rs.12,86,000/- with interest at the rate of 7.5% per annum from the date of claim petition till realization of the amount.
3. Perusal of the pleadings before the Tribunal indicates that there is no dispute made by MSRTC with regard to the fact that

the offending Bus is involved in the occurrence of the accident. Present Appeal is filed with the contention that the accident occurred solely on account of the negligence on the part of the deceased who was riding motorcycle.

4. At the outset, learned counsel for Appellant - MSRTC submits that there is delay in filing of the First Information Report of the occurrence of the accident which creates doubt not only about the accident but the manner in which it occurred. It is his submission that the MSRTC led evidence of the driver who deposed about the causing of the accident inside the depot. It is his submission that for this reason, it could be safely held that the deceased was responsible for the occurrence of the accident. It is his further submission that since the deceased was not wearing helmet and he died because of head injury, he be held responsible for the said accident

5. Learned Counsel for the Respondent/Claimant supported impugned judgment and award. She drew attention of the Court to the spot panchanama which according to her indicates that the evidence of driver is not reliable being contrary to said record. In any case, it is her contention that the claimant has proved the occurrence of the accident so also filing of chargeheet against the driver of the ST Bus which is sufficient to accept his negligence in the accident.

6. The burden upon the claimant to prove the claim is on preponderance of probability. It is settled position of law that on the basis of the police papers/chargesheet, the fact about accident

so also negligence can be established by the claimant. Here in this case, even if it is accepted that the First Information Report came to be lodged belatedly, MSRTC has not deputed the fact that the offending bus is involved in the occurrence of the accident. Further there is no dispute that the driver of the offending bus is chargesheeted. Thus the claimant is succeeded in proving this case on probability. The onus therefore shifted on MSRTC to prove contrary.

7. Though the driver was examined by MSRTC before the Tribunal, his statement on oath is not consistent with the spot panchanama. Apart from the said fact, admittedly chargesheet has been filed against him for been negligent in driving of his Bus. Tribunal therefore, has rightly considered evidence on record and allowed the claim. This Court therefore finds no substance in the Appeal and hence the same deserves to be dismissed at threshold. In the result, following order :-

ORDER

- (i) Appeal stands dismissed.
- (ii) Statutory deposit be transferred to the Tribunal along with accrued interest thereon.

(R. M. JOSHI, J.)

VDMokal/-