IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1363 OF 2025

Controller,
Maharashtra State Road Transport Corporation
Add: Shankar Sheth Road, Swargate, Pune .....Appellant

Versus

1 Sarika Ganesh Bhaskar
Age-33 Years, Occ: Household
R/o.Hapusbag, Taluka-Junnar
District-Pune

2 Ganesh Kisan Bhaskar
Age-44 Years, Occ: Labour
R/o Hapusbag, Taluka-Junnar
District-Pune .... Respondents

Mr.D.D. Rananaware, Advocate for the Appellant.
Mr.Yogesh Pande, for Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JULY, 2025.

Judgment. :

1. The issue involved in this appeal is that the accident occurred due to sole negligence of the deceased.

2. It is contention of learned counsel for the appellant-Corporation that the accident occurred due to sole negligence of the rider of the motor-cycle on which the deceased was pillion rider, the rider of the motor-cycle was not wearing helmet and he was not having valid driving license but the Tribunal has not considered these facts and has passed the impugned

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judgment and order, which is erroneous. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondents/claimants that the deceased was pillion rider, hence, the question of his negligence does not arise. Moreover, the offence was registered against the driver of the offending bus. The Tribunal has passed well reasoned order, no interference is required in it and requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by the Motor Accident Claims Tribunal, Pune.

5. Admittedly, at the time of accident, the deceased was a pillion rider, hence, the question of his negligence would not arise. The Maharashtra State Road Transport Corporation (MSRTC) has examined Kisan Gite, the driver of the offending S.T. bus. In his testimony, he deposed that he was driving on his correct side of the road but the motorcycle, approaching from the opposite direction at a high speed, collided with the bus, resulting in the accident. However, it is an undisputed fact on record that Kisan Gite has been charge-sheeted for rash and negligent driving. It is not uncommon for a person involved in such an incident to attempt to exonerate himself. Furthermore, in his cross-examination, the said witness has admitted that the bus was proceeding towards Nashik at the relevant time. It is well settled principle of law that while witnesses may err, the physical evidence speaks for

itself. The spot panchanama (Exhibit-23), which remains undisputed, carries greater evidentiary value. The appeal is devoid of merit and I pass following order :

O R D E R

1. The appeal is dismissed. No order as to cost.
2. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
3. The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
4. Record and proceedings be sent to the Tribunal.

6. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)