

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1373 OF 2025**

Controller,
Maharashtra State Road Transport Corporation
Add: Shankar Sheth Road, Swargate, PuneAppellant
Versus

1 Yogita Gopinath Raskar
Age-37 Years, Occ: Household

2 Shri.Gopinath Ramdas Raskar
Age-38 Years, Occ: Labour
Both R/at Kasuri, Taluka-Shirur
District-Pune Respondents

Mr.D.D. Rananaware, Advocate for the Appellant.
Mr.Yogesh Pande, for Respondent Nos.1 and 2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JULY, 2025.

Judgment. :

1. This appeal is preferred by the Corporation against the judgment and order passed by the Motor Accident Claims Tribunal, Pune (for short "the Tribunal").

2. It is contention of learned counsel for the appellant that accident occurred due to sole negligence of the deceased. At the time of the accident, the deceased was not wearing helmet and he was not holding effective and valid driving license but this fact is not considered by the Tribunal and requested to allow the appeal.

**SHUBHADA
SHANKAR
KADAM**

Digitally signed by
SHUBHADA
SHANKAR KADAM
Date: 2025.07.30
11:16:40 +0530

3. It is contention of learned counsel for respondents/claimants that 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 Tribunal.

5. It is claimants' case that on 20th August 2021 at about 10.30 am, the deceased was riding his motorcycle with his friend. Though they were proceeding by observing their side, the offending S.T.Bus came from Pune side in rash and negligent manner and went on the wrong side of the road and gave dash to the motorcycle. Due to dash, the deceased and his friend suffered injuries and succumbed to the injuries. An offence was registered against the driver of the offending bus.

6. To prove the negligence, the claimants have relied on police papers. The Corporation has examined the driver of the offending bus - Kisan Gite. He has stated that he was proceeding by his side of the road. At that time, the motorcycle came from opposite direction in high speed towards the S.T.Bus and gave dash and thereby accident occurred.

7. While dealing with the issue of negligence, the Tribunal has observed that the driver of the offending bus is charge-sheeted for rash and negligent driving. During cross-examination, he admitted that at the time of the accident, his bus was proceeding towards Nashik side. The learned Tribunal further observed that the spot panchanama of the

accident shows that the bus had gone on the wrong side of the road and gave dash to the motorcycle. The Tribunal has further observed that the S.T. Bus not only went on wrong side of the road but also proceeded by passing the road divider strips. On that basis, the Tribunal has considered that the accident occurred due to negligence of the bus driver. I do not find infirmity in it.

8. It is contention of learned counsel for the appellant-Corporation that the width of road was 28 feet. The bus had gone only one foot on the other side of the middle line. The motorcycle rider could have proceeded from remaining part of the road, it shows his negligence also. In my view, there is no eye-witness to the incident. The deceased was riding motorcycle on his side and the bus was coming from opposite direction. The deceased would not have thought that the bus would come on this side of the divider and hit him. The accident happened suddenly. So mere going of the bus one foot on the other side of the divider cannot be considered as contributory negligence of the rider of motorcycle. It is contention of learned counsel for the Corporation that the rider of the motor cycle was not holding effective and valid driving license. It is settled principle of law as held by the Hon'ble Apex Court in **National Insurance Company Limited vs. Chamundeswari & ors. C.A. @ SLP (c) No.4705 of 2019** that the party which takes plea, has to prove its case by cogent evidence. No evidence is produced on record to show that the rider of motorcycle was not holding valid and effective driving license.

9. In view of above, the appeal is devoid of merit and I pass following order :

ORDER

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

(SHIVKUMAR DIGE, J.)