

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

FIRST APPEAL NO. 1504 OF 2025

**Maharashtra State Road
Transport Corporation**
Thr. Its Divisional
Controller at Division Office
At Palghar Taluka and Dist. Palghar
Pin – 401 404.

...Appellant

Vs.

Sudhakar Nathu Bohale
Age : 33 years, Occ.: Nil,
R/at. House No. 1207, ST
Domnic Road Palmar
Wadi Sandor Vasai West
Tal. - Vasai, Vasai
Virar City Dist. Palghar.

...Respondent

Adv. Manjeet Lotankar a/w Adv. Sumedh S. Gaikwad, Adv. Dhananjayrao Rananaware	Advocate for the Appellants-MSRTC
Ms. Rina Kundu	Advocate for the Respondent

CORAM : S. M. MODAK, J.

RESERVED ON : 16th OCTOBER 2025

PRONOUNCED ON : 11th NOVEMBER 2025

JUDGMENT :-

1. This is an appeal against the award dated 28.03.2024 passed by learned Member, MACT, Vasai in MACP No. 17 of 2022.
2. There were two parties. One Claimant, who is injured auto rickshaw driver and second MSRTC, who is owner of the offending ST bus. On the relevant date, ST bus was driven by one Shailesh Shivaji Suryawanshi.
3. There is F.I.R. registered against the said ST driver with Manikpur Police Station, Vasai under Section 279, 337, 338 of the Indian Penal Code and Section 184 of the Motor Vehicles Act.
4. The Claimant sustained injuries. Firstly, he was taken to the hospital at Vasai-Virar and then shifted to BDBA Hospital, Kandivali. The accident took place on 08.11.2021 in the morning hours at 6.15 a.m.. The Claimant has got permanent partial disability to the extent of 36%. He has entered into witness box and examined Dr. Samir Lokhare. Whereas ST driver has also entered into witness box. On assessing the evidence, the Tribunal held ST driver rash and negligent and compensation to the extent of Rs. 8,67,000/- alongwith interest @ 6% p.a. was awarded.

5. This appeal by MSRTC mainly on the ground of negligence and quantum.

Negligence

6. The Claimant and ST driver both were eye-witnesses. The evidence which has come on record is as follows:-

- (i) The claimant plies auto-rickshaw on hire basis. On the date of the accident on 08.11.2021 at 5.30 a.m., he took his auto rickshaw and he reached near Anand Bhavani Temple. At that time, ST Shivshahi bus driver has come from the opposite direction. So far as location of the accident and the manner in which both the vehicles came at the spot is undisputed. They dashed each other from the opposite direction is also undisputed. The only dispute is who was rash and negligent. According to the ST driver auto rickshaw came from the opposite direction in a great speed. ST driver gave a signal with the help of the light of the bus. The auto rickshaw dashed on the right side of the ST bus and turned turtle. The auto rickshaw driver was injured. He was paid for certain expenses. The Claimant

has blamed the ST driver. The Tribunal has also held ST driver guilty, rash and negligent. These findings are there in para no. 9.

7. According to learned Advocate for the Appellant, in fact the auto rickshaw driver was in great speed and he could not judge the signal and dashed the ST. According to him, just because the F.I.R. is registered against the ST driver, it does not mean that ST driver was only negligent. The Tribunal has not assessed the evidence properly.

8. Whereas according to Ms. Kundu, the finding is on the basis of the documentary evidence and need not be interfered with. The surrounding circumstance needs to be considered. The following documentary evidence was given:-

- a) Copy of the F.I.R.
- b) Copy of the spot panchnama
- c) Copy of MLC report

9. The F.I.R. is registered on the complaint of auto rickshaw driver. Whereas the spot panchnama dated 08.11.2021 records the boundaries at the spot and damage caused to both the vehicles. It denotes following facts :-

- a) The damage amount is not mentioned therein. The bumper of the headlight of the right side of the BEST bus is damaged.
- b) The chassis, frame, front body and wiring of the auto rickshaw was damaged to the extent of Rs. 40,000/-.

10. The bus had come from the Bhusawal and was proceeding towards Vasai. The distance is 445 k.m.. The ST driver admits there is turn while coming from East towards West. The ST driver was required to face departmental inquiry and even he was sent to the training. The ST driver has driven ST for long duration because he came from Bhusawal.

11. Whereas Claimant took out his auto rickshaw at 5.30 a.m.. and accident took place at about 6.15 a.m.. Admittedly, there is greater damage caused to the auto rickshaw. Furthermore, amongst two, it is Claimant who has sustained injury. If these two factors are considered, there is a reason to believe that this ST driver only who was rash and negligent. I find no fault in the findings arrived at by the tribunal.

12. Dr. Samir Lokhare has assessed his permanent partial disability as 36%. There is difference between physical disability and functional

disability. The Court has to consider what will be the effect of disability on his functional disability. In this case it is the ability of the Claimant to ply the rickshaw. One of the injuries are on lower limb (fracture of right Tibia fibula), there are minor injuries on head and occipital region. The claimant was finding it difficult to squat and sit by crossing the leg. **The percentage of functional disability considered by the Tribunal is 25% is not on higher side. I agree with the same.**

Quantum of compensation

13. In injury claim, compensation can be awarded towards pecuniary damages and non-pecuniary damages. Pecuniary damages can be expenses incurred on medical bills, hospitalization, attendant charges and so on. Non-pecuniary damages may include pain and suffering and so on.

14. It is important to consider monthly income. The claimant is auto rickshaw driver. His claim was of Rs. 25,000/- per month. There is no documentary evidence. Hardly, he can get documentary evidence because the auto rickshaw driver is paid by the customers as and when auto rickshaw is hired. The Tribunal considered his monthly income as Rs. 10,000/-. It was by applying test of the notional income. There is

no dispute about driving auto rickshaw by the Claimant. I considered Rs. 10,000/- per month as reasonable income.

15. Further calculation done by the Tribunal is as follows:-

Future Prospect 40% (Considered his age as 30 years)	Rs. 4,000/-	---
Total income	Rs. 14,000/- X 12 months X 16 as multiplier X 25% (functional disability)	Rs. 6,72,000/-
Physical and mental pain, loss of amenities and loss of expectation of life	--	Rs. 75,000/-
Medical expenses	(bill not produced)	Rs. 10,000/-
Special diet travelling expenses and physiotherapy	--	Rs. 1,10,000/-
	Total	Rs. 8,67,000/- (Rupees Eight Lakhs Sixty Seven Thousand only)

16. Patient was admitted in the hospital from 08/11/2021 to 23/11/2021. The total compensation is Rs. **Rs. 8,67,000/- (Rupees Eight Lakhs Sixty Seven Thousand only)**

17. The Tribunal has awarded interest @ 6% p.a. from the date of

instituting of petition till realization of the entire amount.

18. I do not find any reason to disagree with these findings. I find no merit in the appeal. Hence, I pass the following order :-

ORDER

- (i) The appeal is dismissed.
- (ii) The MSRTC is directed to deposit remaining amount, if any, alongwith interest within two months from the date of uploading the order before the Motor Accident Claims Tribunal, Vasai.
- (iii) The statutory deposit alongwith interest be transferred to the MACT, Vasai.
- (iv) The Claimant is at liberty to withdraw the amount before the Tribunal. If there is an issue about outstanding amount, let the MSRTC to file an affidavit before the tribunal thereby giving the details of payment made by them. The tribunal to decide that issue during execution.
- (v) Accordingly, the First Appeal is disposed of.
- (vi) Pending interim application, if any, also stands disposed of.

[S. M. MODAK, J.]