

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5699 OF 2024

Smt.Sunita Bapu Jagtap,

Age : 46 Years, Occupation : Household,

Residing at : Survey No.376/1/1/2,

Plot No.2, Govind Nagar, Near Chandrabhaga

Lawns, At post : Manmad, Taluka : Nandgaon,

District : Nashik.

...Petitioner

Versus

1. **The Chairman,**
Maharashtra State Road Transport
Corporation Ltd., Mumbai, Having Office
at : Central Office, Maharashtra State
Transport House, Dr. Anandrao Nayar Marg,
Mumbai – 08.
2. **The Divisional Controller,**
Maharashtra State Road Transport
Corporation Ltd., Mumbai, Nashik
Region, Nashik.
3. **The Depot Manager,**
Maharashtra State Road Transport,
Nashik Depot.
4. **State of Maharashtra,**
Through its Principal Secretary,
Government of Maharashtra,
Mantralaya, Mumbai.

...Respondents

Mr.Akhil Kupade i/b. Mr.S.R.Jadhav, Advocates for Petitioner.

Mr.Nitesh Bhutekar a/w Ms.Sejal Singh, Mr.Aaditya Mahamiya and
Mr.Prathamesh Mandlik, Advocates for Respondent Nos.1 to 3–
MSRTC.

Smt.R.A.Salunkhe, AGP, for the Respondent No.4 – State.

CORAM : M.S.KARNIK &
S. M. MODAK, JJ.

DATE : 24th FEBRUARY 2026

JUDGMENT : (PER : S.M.MODAK, J.)

1. The issue involved in this Writ Petition is about entitlement of wife of deceased to claim compensation from the respondents on account of death of her husband. Babu Jagtap was the employee of respondent No.1–Maharashtra State Road Transport Corporation Ltd. (“MSRTC Ltd.” for short, henceforth) and on relevant date, he was deputed at Wadala Depot of Brihanmumbai Electric Supply and Transport Undertaking (“BEST” for short, henceforth). He died on 7th April 2021 at Sub-district Hospital, Yevala, District : Nashik on account of COVID-pneumonia. The petitioner being the wife claimed compensation from MSRTC Ltd. However, it was rejected and communicated through letters dated 21st January 2022, 5th March 2022 and 2nd March 2023. It was rejected for the reason “*deceased Babu Jagtap was not assigned essential services and he was not the driver involved in the interstate transport.*”

2. This decision is challenged by way of this petition and there is prayer for issuing *Writ of Mandamus* against the respondents to pay

compensation of Rs.50,00,000/- (Rupees Fifty Lakh). The petitioner heavily relied upon the compensation to be paid as per the circular dated 1st June 2020 issued by the MSRTC Ltd. and pleaded that the benefit can be extended to employees working in MSRTC. There is also a contention raised that the wording of the circular cannot be strictly construed so as to mean only those employees doing the driving job.

3. The respondent No.1 is the Chairman of MSRTC Ltd. The respondent No.2 is the Divisional Controller – MSRTC – Nashik Region, Nashik. The respondent No.3 is the Depot Manager of MSRTC – Nashik Depot and the respondent No.4 is the Government of Maharashtra. The respondent Nos.1 to 3 through their Affidavit-in-Reply has opposed the prayer on the ground of non-fulfilling the criterion as laid down in the circular in question and second contention is case of husband of petitioner falls within the purview of circular No.32 of 2021 dated 30th September 2021 issued by the General Manager of MSRTC Ltd., wherein compensation of Rs.5,00,000/- (Rupees Five Lakh) can be paid in case of employees death due to COVID (but who are not entitled to get either insurance benefit or compensation of Rs.50,00,000/-).

4. On this background, we have heard learned Advocate Mr.Akhil Kupade for the petitioner, learned Advocate Mr.Nitesh Bhutekar for respondent Nos.1 to 3 – MSRTC Ltd., and learned AGP Smt.Reena Salunkhe, for respondent No.4 – State. The relevant facts need to be stated. They are as follows:-

- (i) The deceased was employee of MSRTC and he was deputed at BEST Bus Depot – Wadala for supervising the traffic as per letter dated 23rd March 2021.
- (ii) The deceased joined the duty at Wadala on 24th March 2021.
- (iii) Deceased worked there till 28th March 2021. Admittedly, the deceased was not the driver.
- (iv) The deceased was not feeling well and hence, he sought leave from 29th March 2021 till 31st March 2021.
- (v) He returned to native place and taken treatment from 31st March 2021 till 2nd April 2021 in local dispensary.
- (vi) He was advised on 3rd April 2021 to undergo Corona Virus Test. He was advised to admit in Corona Centre i.e. Sub-district Hospital, Yevala.
- (vii) On 5th April 2021, he was diagnosed as COVID positive.
- (viii) He died on 7th April 2021. There is a certificate issued by Sub-district Hospital, Yevala – Nashik certifying his cause of death. The findings are as follows:-
 - (a) There is respiratory failure.
 - (b) Terminal Type I.
 - (c) Case of ARDS, in case of COVID pneumonia.

(ix) The petitioner filed copy of medical certificate of cause of death and death certificate issued by Sub-district Hospital, Yevala.

5. On this background, the wife of the petitioner has made following correspondence:-

- (a) She wrote letters to the Divisional Controller on 26th April 2021 and 31st January 2022.
- (b) MSRTC Ltd. vide their replies dated 21st January 2022, 5th March 2022 and 2nd March 2023 has rejected the request for grant of compensation of Rs.50,00,000/- (Rupees Fifty Lakh).

6. We have gone through the correspondence. There is reference of certain Government Resolutions (“**GR**” for short), issued by the Government of Maharashtra and there is reference of certain Circulars, issued by the MSRTC Ltd. They are as follows:-

- (i) The petitioner has placed reliance on GR dated 14th May 2021 issued by the Government of Maharashtra. The relevant period prescribed by GR dated 29th May 2020 is extended from 1st January 2021 up to 30th June 2021.
- (ii) Whereas as per GR dated 29th May 2020 (on the basis of the order dated 28th March 2020 issued by the Ministry of Health and Family Welfare, Government of India, providing Insurance Scheme for health workers and related staff) till the time the Insurance Scheme comes into force, by way of

interim measure in case of death of employee, ex gratia assistance of Rs.50,00,000/- was sanctioned.

- (iii) There are certain conditions to be fulfilled which relates to pre-death 14 days attending the duty, certification by recognized hospitals.
- (iv) This Scheme is extended to all local bodies and State Government Public Undertaking.
- (v) There is a reference of circular dated 1st June 2020 issued by MSRTC Ltd. thereby introducing Insurance Scheme / ex-gratia assistance to drivers, conductors, controllers, security guards who are coming into direct contact with passengers, ex-gratia assistance of Rs.50,00,000/- is to be sanctioned. The conditions are the same as per State GR. The Scheme is in operation till 30th September 2020.
- (vi) There is a further circular bearing No.32 of 2021 dated 30th September 2022 issued by General Manager, MSRTC Ltd. thereby extending the period till 30th June 2021. In this case, the death occurred on 7th April 2021.

7. The Government of Maharashtra has already clarified the benefit of GR dated 29th May 2020 is extended to all employees working in local bodies and State Government Public Undertaking. The MSRTC Ltd. is a State Government Public Undertaking. If we read the GR as well as Circulars, certain arrangement is made. It is as follows:-

- (a) Insurance coverage of Rs.50,00,000/- is to be provided.

- (b) Till the time it is provided, ex-gratia assistance of Rs.50,00,000/- is to be paid.
- (c) The Circular dated 30th September 2021 further provides ex-gratia assistance of Rs.5,00,000/- in case of death of an employee if he is not entitled to get Rs.50,00,000/-.

8. In this case, respondent Nos.1 to 3 have already deposited an amount of Rs.5,00,000/- in the Bank Account of wife of petitioner for the reason that case of husband of petitioner is ineligible to get Rs.50,00,000/-. The respondent Nos.1 to 3 have emphasized on no applicability of the Circular to the case of husband of petitioner. Admittedly, the husband of the petitioner was not the driver or conductor. The relieving letter dated 23rd March 2021 explains why the husband of the petitioner was deputed at Wadala depot of BEST. It is for the purpose of supervising the excess traffic. So whether the Court is supposed to interpret the Circular in a literal sense or to interpret it in a broader sense. There are certain judgments delivered by this Court in similar matters. Useful reference can be made to following judgments:-

- (A) In case of *Ramesh Balu Patil V/s. State of Maharashtra, Thr. Upper Secretary, Public Health Department and Others* in Writ Petition No.15235 of 2022 (Coram : M.S.Karnik & Ajit

B. Kadethankar, JJ.) (High Court of Bombay : Circuit Bench at Kolhapur) has dealt with a case of COVID death of Data Entry Operator working in Primary Health Center on contractual basis. The death was on 4th July 2021 which was outside the outer limit of 30th June 2021. It was observed thus:-

“We hold that the benevolent scheme formulated under the Government Resolution dated 29th May 2020 and subsequent Government Resolution dated 14th May 2021 cannot be given a narrow meaning anymore. We declare that “it is not the date of death, but the date of contracting Covid-19 infection which is material for grant of insurance coverage under the Government Resolution dated 29th May 2020 read with Government Resolution dated 14th May 2021”.

- (B) In another case of ***Sunil Shankar Mohite V/s. Union of India, Through its Secretary, Ministry of Health and Family Welfare, Nirman Bhavan, New Delhi and Others*** in Writ Petition No.7359 of 2023 (Coram : R.G.Avachat & Ajit B. Kadethankar, JJ.) (High Court of Bombay : Circuit Bench at Kolhapur) has dealt with COVID death of a staff nurse attached to Police Hospital – Sangli. The said hospital gave a primary treatment to COVID infected patients and then transferred them to other hospitals. That hospital was not recognized for COVID and compensation was denied. The objection was turned down and it was observed that:-

“We find that it is not only hyper-technical approach of the concerned authority, but imposing condition which

even does not ind part of the original scheme tempts us to hold that approach of the respondent authorities is hostile to the object of the scheme.”

(C) In the case of ***Pradeep Arora Vs. Director, Health Department, Government of Maharashtra*** (Special Leave Petition No.16860 of 2021), the issue involved before the Hon’ble Supreme Court was whether it can be said that the service of the deceased doctor was requisitioned for the purpose of COVID related duties. It was answered in the affirmative.

9. There is no dispute that the deceased died due to COVID. We are inclined to take a view that the husband of the petitioner was involved in supervising the traffic at Wadala depot and as such, will fall within the parameters of the Circular dated 1st June 2020 and as extended vide Circular dated 30th September 2021. Even if the deceased was deputed to control the traffic, it does not mean that he was supposed to do the work by sitting in the Office. In discharge of his duty, the deceased was supposed to interact and came in contact with the drivers and conductors who were actually involved in driving the buses thereby exposing him to the same risk as the drivers and conductors. Considering the facts and circumstances, we are inclined to take a view so as to grant relief to the petitioner.

10. We are constrained to hold that the respondent Nos.1 to 3 have

taken a narrow view of the Circular. The respondent Nos.1 to 3 have forgotten the precarious situation prevailing during COVID period when no one was ready to go out of house for discharging their duties. The Court can take a judicial notice that the life of general public came to a standstill and the public services including transport were kept open for limited services. It was part of duty of the husband of the petitioner to attend the job which he has done at the risk of his life.

11. Record shows that he went on leave on account of ill-health and hospitalized in Sub-district Hospital, Yevala and finally died due to COVID. The Court can take a judicial notice of the difficulties faced in arranging the medicines. The respondent Nos.1 to 3 cannot avoid their responsibility. The Corona Virus was widespread. The Governments have exercised the power under the Disaster Management Act, 2005 and the Epidemic Diseases Act, 1897.

12. For the above discussion, we are inclined to allow the petition by adjusting the amount of Rs.5,00,000/- which is already paid by MSRTC Ltd. The petitioner is entitled to get the remaining amount. Hence, the order:-

-: **ORDER** :-

(i) Writ Petition is allowed.

- (ii) The decision communicated through the letters dated 21st January 2022, 5th March 2022 and 2nd March 2023 are set aside.
 - (iii) The respondent Nos.1 to 3 are directed to pay compensation of Rs.45,00,000/- (Rupees Forty Five Lakh) to the petitioner within a period of 8 weeks from the date of communication of this order.
 - (iv) If the money is not paid within above said period, the respondent Nos.1 to 3 are directed to pay interest at the rate of 6% per annum from the above said period till realization.
13. With these observations, the Writ Petition is disposed of.
14. Pending Applications, if any, also stand disposed of.

(S. M. MODAK, J.)

(M. S. KARNIK, J.)