

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1300 OF 2024

Maharashtra State Road Transport Corporation ...Appellant
through Divisional Controller

Versus

Radha Machhindra Salve (Dec. throug LR., ...Respondents
Machhiindra Khandu Salve & Ors

WITH
FIRST APPEAL NO. 1299 OF 2024

Maharashtra State Road Transport Corporation ...Appellant
through Divisional Controller, Nashik

Versus

Sugandha Mahendra Salve (Handicap) through ...Respondent
Mahendra Shivram Salve

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Mr Nitesh Bhutekar, with Prathamesh Mandlik, for the Appellant.
Mr Pritesh Bohade, for the Respondents.

CORAM: R. M. JOSHI, J.

DATED: 27TH JANUARY 2026

PC:-

1. These Appeals take exception to the Judgment and Award dated 13th July 2023 passed in MACP Petition No. 660 of 2018 and MACP Petition No. 659 of 2018 whereby the death claim and injury claim, respectively, were allowed by the Tribunal.

2. MSRTC has filed these Appeals essentially on the ground of challenging quantum of compensation. In case of injury claim, it is contended that the Tribunal has granted compensation without considering the disability and its percentage, so also, excessive compensation came to be granted to the extent of Rs. 4,00,000/- on future medical expenses ignoring the fact that a sum of Rs. 56,00,000/- is already directed to be paid towards prosthesis for the entire life of the injured.

3. As far as the death claim is concerned, it is submitted that without there being any substantive evidence to hold that the deceased was earning Rs. 6,000/- per month, Tribunal has accepted the said income on the basis of oral statement of the Claimant No. 1, i.e., in absence of supporting document.

4. At the outset, learned counsel for MSRTC submits that there is a contributory negligence of the deceased as well as injured in the occurrence of the accident.

5. Learned counsel for the Appellant-MSRTC drew attention of the Court to the evidence on record, which according to him, indicates that the compensation granted in both cases is excessive and hence, deserve interference. In injury claim, he drew attention of the Court to the findings recorded by the Tribunal in paragraph 31 of the Judgment holding that since the amount of compensation is granted for prosthesis leg in advance, and deposit the said amount and earned interest thereupon, it would take care of maintenance and repairs of the same. It is his submission that

in spite of the said fact, an additional amount of Rs. 4,00,000/- came to be granted by the Tribunal, which requires interference.

6. Learned counsel for the Claimant in injury claim pointed out that though this is a case of amputation of both legs of the Claimant, the Tribunal has not granted compensation for pain and suffering, so also, less amount of compensation is granted under the head of loss of amenities and loss of expectation of life.

7. In so far as contributory negligence is concerned, admittedly neither deceased nor the Claimant was drier of the other vehicle,i.e., tractor which was allegedly parked negligently. Thus, this is not a case of contributory negligence. It is open for the Claimants to file claim against both or any one of the joint tortfeasos.

8. As far as the grant of compensation for future medical expenses is concerned, though the said compensation is granted of Rs. 4,00,000/-, the Tribunal has ignored findings recorded in paragraph 31 of the Judgment. It is, however, pertinent to note that the Tribunal has not granted any compensation under the head of 'pain and sufferings' and also granted less amount of compensation for loss of amenities and expectation of life. Having regard to the nature of injury and the disability caused to the Claimant, the amount of Rs. 4,00,000/- deserves to be adjusted against these three heads. Hence, no interference is called in the impugned Judgment and Award.

9. As far as the death claim is concerned, there is evidence led by the Claimant to show that the deceased was earning Rs. 200/- per day and as such the Tribunal has committed no error in accepting the monthly income of the deceased at the rate of Rs. 6,000/-. The compensation arrived at is on the basis of appreciating the age of the deceased with proper multiplier and as such no error is committed by Tribunal.

10. In view of the above, I pass the following order:

ORDER

- (a) The Appeals are dismissed.
- (b) The Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- (c) The statutory amount be transmitted to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
- (d) R & P be sent back to the Tribunal.

11. In view of dismissal of the Appeal, pending Applications, if any, stand disposed of.

(R. M. JOSHI, J.)