

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

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FIRST APPEAL NO.1665 OF 2024

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

Vs.

Ashabai Ramdas Dhengale and Ors.

... Respondents

**WITH
CROSS OBJECTION STAMP NO.26840 OF 2025
IN
FIRST APPEAL NO.1665 OF 2024**

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

Vs.

Ashabai Ramdas Dhengale and Ors.

... Respondents

**WITH
INTERIM APPLICATION NO.10489 OF 2025
IN
FIRST APPEAL NO.1665 OF 2024**

Ashabai Ramdas Dhengale and Ors.

... Appellant

Vs.

Divisional Controller, Maharashtra State Road Transport ... Respondents
Corporation

**WITH
FIRST APPEAL NO.1664 OF 2024**

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

Vs.

Bhiva Vitthal Aadhari (through His Next Friend, Arun
Bhiva Aadhari)

... Respondents

**WITH
CROSS OBJECTION STAMP NO.26839 OF 2025
IN
FIRST APPEAL NO.1664 OF 2024**

Maharashtra State Road Transport Corporation, Pune ... Appellant

Vs.

Bhiva Vitthal Aadhari (through His Next Friend, Arun ... Respondents
Bhiva Aadhari)

**WITH
INTERIM APPLICATION NO.15332 OF 2024
IN
FIRST APPEAL NO.1664 OF 2024**

Bhiva Vitthal Aadhari (through His Next Friend, Arun ... Appellant
Bhiva Aadhari)

Vs.

Maharashtra State Road Transport Corporation, Pune ... Respondents

Mr. Manjeet Lotankar i/b Mr. D. D. Rananaware, Adv. for the Appellants
Mr. Yogesh Pande a/w Mr. Himanshu Jha, Adv. for the Respondents

CORAM : R. M. JOSHI, J.

DATED : 25th FEBRUARY 2026.

JUDGMENT :-

1. By consent of both sides heard finally at the stage of admission, since both appeals and cross objections involve similar question of facts and law, they are decided by this common order.

2. Maharashtra State Road Transport Corporation (M.S.R.T.C.), Pune filed appeal challenging impugned Judgment and Award dated

23rd April 2024 passed in Motor Accident Claims Tribunal Nos.150 of 2019 and 148 of 2019 filed by the claimants in death claim and injury claim, respectively.

3. The learned counsel for the Appellant submits that the Tribunal has not considered the negligence on the part of the rider of the motor cycle in occurrence of accident. To support this submission, he relied on evidence of Ninad Kamble, driver of the bus who according to him narrated the manner in which the accident in question occurred. It is his submission that his evidence coupled with the police papers indicate that the accident occurred as the motor-cyclist crossed the road and came in front of the bus. It is his submission that the rider of the motor cycle i.e. the claimant in injury claim No.148 of 2019 be held responsible for causing of the accident.

4. As far as the quantum of the compensation granted by the Tribunal in both cases, it is his submission that except for the oral statement of the claimants before Tribunal, there is no evidence to indicate that the deceased as well as the injured were working as a Mason. In this regard, reference is made to the cross examination of the claimant. It is submitted that without leading any evidence about occupation of the deceased, the Tribunal has erred in accepting notional income of the deceased of Rs.9,000/- per month. On this amongst other contention, he

seeks setting aside of impugned Judgment and Award.

5. The claimants by filing cross objection seek enhancement of the compensation. It is his submission that the Tribunal has committed error in accepting the notional income on lower side, so also erred in not adding the compensation towards future prospects. It is his submission that in death claim, the consortium has not been granted, in accordance with the Judgment of the Hon'ble Supreme Court in case of **Magma General Insurance Co. Ltd. V/s. Nanu Ram Alias Chuhru Ram AIR ONLINE 2018 SC 1249**. It is further submitted that in death claim, the Tribunal ought to have considered the deduction of 1/4th amount of the income towards the personal expenses of the deceased instead of 1/3rd amount owing to number of dependents on him. Similarly the multiplier has not been applied considering the age of the deceased.

6. At the outset, this Court would like to deal with issue of negligence sought to be raised by the Appellant /MSRTC against the rider of the motor cycle i.e. claimant in claim No.148 of 2019. The claimant could not enter into the witness box in view of the fact that he is bed ridden, instead he examined his son and relied upon police papers. Undeniably, chargesheet came to be filed against the driver of the MSRTC bus. Though the said driver was examined before the Tribunal, his evidence indicates that he could see the motor cycle stopped on the road as

it was blocked by another vehicle from some distance. In spite of the same, he did not make attempt to stop the bus and dashed to the motor cycle. Thus, the evidence led by doctor Mandar Patil does not show that he took all possible precaution to avoid accident and that any negligence on the part of the rider of the motor cycle could be considered in occurrence of accident. Most importantly, the evidence of the driver of the bus indicates that the injured was crossing the road on his motor cycle from the designated place on road. Thus, it is not the case wherein any negligence can be attributed to him for occurrence in the accident.

7. As far as causing of injuries and disability caused to the injured, owing to the said accident, the evidence of doctor Mandar Patil proves that due to the said injuries claimant is completely paralyzed and has become bed-ridden. There is no reason to disbelieve the said evidence considering the nature of the injuries caused to the injured claimant.

8. Both deceased and claimants in the injury claim were said to have been doing work as a mason. However, since there is no evidence on record to show their income, the Tribunal has considered notional income at the rate of Rs.9,000/- per month. No facts could be found in the said finding recorded by the Tribunal. However, admittedly future prospect have not been considered by Tribunal. In view of the Judgment of the Hon'ble Supreme Court in the case of National Insurance Co. Ltd.

V/s. Pranay Sethi 2017(16) SCC 680, future prospect is required to be added to the computation of loss of income. Owing to the age of the deceased as well as injured, claimants would be entitled to receive additional 25% amount towards future prospects. Similarly, the claimants in death claim would be entitled to receive consortium, by following Judgment of the Hon'ble Supreme Court in the case of Magma Insurance. The Tribunal while determining the compensation in death claimant has erred in considering number of dependants on the deceased, so also age of the deceased for applying correct multiplier. Hence, the said error also needs correction.

9. In view of the above, the claimants/original claimants would be entitled to receive the following compensation.

**Calculation for compensation in First Appeal No.1665 of 2024
(Death Claim)**

1)	Notional Income considered Rs.9,000/- p.m.	Rs.	9,000.00
2)	Add : Future Prospects – 25% Rs.9,000/-	Rs.	2,250.00
3)	Loss of dependancy Rs.11,250/- x 12 x 15 multiplier	Rs.	20,25,000.00
	Deduct 1/4th for personal expenses	Rs.	- 05,06.200.00
4)	Loss of income	Rs.	15,18,800.00
5)	Add Consortium = Rs.48,000 x 5	Rs.	2,40,000.00
6)	Loss of estate & financial expenses	Rs.	36,000.00
7)	Compensation entitled	Rs.	17,94,800.00

8)	Compensation granted by Tribunal	Rs.	12,64,250.00
Enhanced Amount Entitled		Total	Rs. 5,30,550.00

Calculation for compensation in First Appeal No.1664 of 2024

(Injury Claim)

1)	Monthly Income considered	Rs.	9,000.00
2)	Future Prospects – 25% Rs.9,000/- + Rs.2250/-	Rs.	11,250.00
3)	Loss of Income Rs.11,250/- x 12 x 13	Rs.	17,55,000.00
4)	Loss of Earnings during	Rs.	27,000.00
5)	Pain of Suffering	Rs.	3,00,000.00
6)	Medical expenditure	Rs.	20,00,000.00
7)	Future Medical Expenses	Rs.	3,00,000.00
8)	Attendant Charges Rs.6000 x 12 x 13	Rs.	9,36,000.00
9)	Special Diet	Rs.	35,000.00
10)	Travelling Expenses	Rs.	50,000.00
	Compensation Entitled	Rs.	54,03,000.00
	Less – Allowed by Tribunal	Rs.	50,52,000.00
Enhanced Amount Entitled		Total	Rs. 3,51,000.00

: ORDER :

- 1) Appeal stands dismissed.
- 2) Cross objections stand partly allowed.
- 3) Claimants in both claims would be entitled to receive additional compensation as detailed above with interest @ 7.5% from the date of claim petition till realization of amount.

- 4) Claimants to pay additional Court fee as per rules.
- 5) Statutory deposits in both appeals, be transferred to Tribunal for disposal as per rule.

(R.M. JOSHI, J.)