



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1371 OF 2016

1. Vasanti Satish Joshi
2. Kirti Satish Joshi

Both are R/at: B-15, 4th Floor,
Vandana Co-Operative Hsg. Sy.
Opp. Forest Conservation office
Dist. Thane (W) – 400 602

...Appellants
(Original claimants)

Versus

The Thane Municipal Transport
Corporation having office at
Panchpakhadi Almeda Road Thane (W).
(New Address – Administrative Bldg.
Road no.16 & 22 Wagle Depo Wagle-Estate
Dist. Thane (W)

...Respondent
(Original Opp. Party)

Ms. Varsha Chavan for the Appellants.
Mr. Anand S. Kulkarni for the Respondent.

CORAM : JITENDRA JAIN, J.
DATE : 8 APRIL 2026

JUDGMENT:

1. This appeal is filed by the original claimants, to challenge an order dated 21 April 2016 passed by the Motor Accident Claims Tribunal, Thane (MACT), for enhancement of compensation on various grounds.

2. By consent of the parties, the appeal is taken for hearing finally.

3. On 9 November 2012, Mr. Satish Joshi who was suffering from parkinson disease and was also partially paralytic, met with an accident while crossing road near Aradhana Talkies, Naupada, Thane. Mr. Joshi expired on 16 March 2013. Prior to his death, he was engaged in the vocation as a priest in a temple. The accident happened at around 6:50 p.m. He was knocked down by the bus belonging to Thane Municipal Transport Corporation (TMTC).

4. The dependents made an application to the MACT for compensation. MACT vide its order dated 21 April 2016 awarded compensation of Rs.13,23,000/- alongwith interest @ 8% per annum. Being aggrieved by the said order, the original claimants have preferred the present appeal. The TMTC has not challenged the order passed by the MACT, Thane.

5. I have heard Ms. Chavan, learned counsel for the appellants-original claimants and Mr. Kulkarni, learned counsel for the respondent-TMTC.

6. The first contention of Ms. Chavan is that the income of the deceased should have been considered at Rs.12,000/- per month, whereas the Tribunal has considered only Rs.8,000/-. The deceased was not only engaged as a priest but also was working as a commission agent. Admittedly, the evidence with respect to the quantum of income was not led. However, in the evidence, the nature of work which the deceased was engaged in, has come on record. In my view, in the absence of any documentary evidence, the prayer made for considering the income of the deceased at Rs.12,000/- per month cannot be accepted. At the same time, it has come on record that the deceased was engaged as a priest as well as doing commission agency business. It is not possible to arrive at a definite sum which can be said to have been

actually earned by the deceased. The Tribunal also has arrived at Rs.8,000/- on estimate basis. Therefore, in the interest of justice, to balance the equity Rs.10,000/- can be considered as monthly income and accordingly the compensation awarded can be re-worked.

7. The second contention raised by Ms. Chavan is on account of contributory negligence. The Tribunal in paragraph 18 has given its reasoning and has attributed 50% negligence to the deceased and 50% to the driver of the TMTTC bus. Admittedly, the deceased was a parkinson disease patient and was suffering from paralysis. This ailment makes the movement of a person slow as compared to a normal person. Also a person suffering from parkinson disease has a tendency of falling down. In my view, the deceased should have been accompanied by some person, and more particularly when he had to cross a busy road. He could have taken the help of a bystander or the general public to assist him to cross the road. It is also important to note that the spot of incident was not a place where there are signals. A pedestrian should try to cross the road only at the signal by following signal rules. Therefore, to some extent the negligence certainly is attributable to the deceased. Similarly, the driver of the bus who is observing the person from a higher height should have realised that a person limping is making an attempt to cross the road and he should have been more careful. Though he had applied the brakes but it was too late in the day to save the deceased. Therefore, to some extent it cannot be ruled out that the driver was also not responsible. In such cases, the attribution cannot be made with exact precision but an estimate has to be made on the guesswork by recasting the spot of the incident. In my view, if equal negligence has been attributed to the deceased and the driver by the Trial Court of first instance, there cannot be a case made out for perversity for this Court to interfere in the estimate made. Therefore,

the finding of the Tribunal on this issue is confirmed.

8. Ms. Chavan, learned counsel for the appellants has also prayed that the Tribunal should have granted Rs.1,00,000/- towards pain and suffering of the dependents since the accident happened in November 2012 and the death occurred in March 2013. For a period of 4 months, the dependents had to undergo severe pain and suffering which this Court cannot ignore. However, such mental pain can never be converted into monetary terms. Therefore, in the interest of justice, Rs.50,000/- is to be awarded under this head to the original claimants.

9. The revised compensation based on the present order works out to Rs.15,15,000/-. The original claim awarded by the Tribunal is Rs.13,23,000/-. Therefore, the compensation is enhanced by Rs.1,92,000/-. The above amount including the enhanced amount should be remitted to the original claimants alongwith interest.

10. Before parting the Court deems it fit to express its views on this issue which affects the society at large. The pedestrian of this country should be careful in following the rules and regulations. It is generally observed that the people cross the road ignoring the signals, which results into accidental death or injury. It is high time that we as a responsible citizen, follow the rules and regulations while crossing the road and by following signals. Merely because, there are no vehicles coming from either side, people should not cross the road, when the signals clearly show that they are not supposed to cross the road.

11. It is also important to note that the vehicles also should not break the signals, though such tendency of breaking the signals has come down but still and more particularly people driving two wheeler do not follow the signal rules and regulations and at times this has

resulted into death and injury of not only the persons driving two wheeler but also other innocent people. The traffic police, though doing commendable job, should take strict action against the people driving two wheeler and violating the signal rules.

12. In my view, it is high time that the people of this country inculcate within themselves the civic sense which we all have to follow without anyone compelling us to follow. On this point, we should learn from the developed countries how the people driving the vehicle and also how people crossing the road behave in these countries. Even we as an Indian, when we travel abroad we follow the rules and regulations of the foreign country while crossing and driving. I do not see any reason why we should not follow the rules and regulations of our country while we return and are staying in India. There cannot be any justification for not following the same.

13. At times, it is observed that the elders and the parents violate these rules while driving and crossing and when they are accompanied by children, these children who are the future of this country observe the behaviour of their parents and elders and follow and adopt the same illegalities. Therefore, it is the moral duty and obligation of the elders and the parents to follow rules and regulations while driving and crossing so that the children learn these basic civic sense from their parents of following rules and regulations rather than, learning how to violate the rules and regulations. It is rightly said children adopt quickly what they observe.

14. With the above views, I bring an end to this matter with the hope that progress is made by the citizens of this country on this issue by inculcating within themselves the civic sense of following rules and regulations while driving and crossing the road, by observing that rights

and duties are two sides of same coin; exercise of one must not lead to the neglect of other.

15. Appeal is disposed of in above terms.

16. A copy of this order to be sent to the concerned top officials of the Regional Transport Office.

[JITENDRA JAIN, J.]