



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

FIRST APPEAL NO. 2257 OF 2014

Kalyani w/o Subhash Bhosale  
Age: 40 years, Occu.: Household,  
R/o. Walghud, Tq.Shrigonda,  
District : Ahmednagar.

....Appellant  
(Orig. Claimant)

**Versus**

1) Kisan s/o Rama Harlal  
Age: 50 years, Occu.: Service,  
R/o. Deulgaon, Tq.Nagar,  
District : Ahmednagar.

2) Maharashtra State Road Transport  
Company, through Divisional Manager,  
Sarjepura, Ahmednagar.

....Respondents

.....  
Advocate for Appellant : Mr.Shubham Jayabhar h/f.

Mr. Dattatraya R. Jayabhar

Advocate for Respondent no.2 : Mr. Anilkumar B. Dhongade

Respondent no.1 is served.

.....

**CORAM : ABHAY S. WAGHWASE, J.**

**RESERVED ON : 21 APRIL, 2026**

**PRONOUNCED ON : 24 APRIL, 2026**

**JUDGMENT :-**

1. This is an appeal by original claimant for enhancement of compensation awarded by learned Chairman, Motor Accident Claims Tribunal, Ahmednagar in MACP No.819 of 2008, which was an injury claim.

2. Learned counsel for appellant submitted that on 31-10-2008 claimant, and her son-in-law i.e. deceased Ajay Kale were travelling on motorcycle bearing No.MH-16 AA-9473. That, when they were travelling on Nagar-Daund road and when claimant was pillion rider, their Motorcycle was given dash by S.T. Bus bearing No.MH-20 D-9124 coming from opposite direction. That, because of the dash, appellant's son-in-law Ajay came under the wheels of the said bus and died on the spot, whereas she suffered fracture injuries to right side clavicle and right fibula as well as injury to left thigh. She was required to be admitted and treated and thereby she had set up claim for compensation under Section 166 of the Motor Vehicles Act to the tune of Rs.2,00,000/-.

3. Learned counsel submitted that, though the learned Tribunal partly allowed the claim and awarded Rs.1,30,000/- under various heads, no amount was awarded towards future prospects, inspite of sustaining permanent disability. It is also his grievance that even when claimant had adduced evidence about suffering 30% permanent disability, learned Tribunal has only considered disability to the extent of 15%. On both above counts, award is questioned and prayers are raised for enhancing the compensation and granting

future prospects.

4. Though served, none appeared for respondent no.1.
5. Learned counsel for respondent no.2/MSRTC would support and justify the award to be just, legal and proper. He prays to dismiss appeal for want of merits.
6. Heard. Perused the record.
7. Present appellant, who is original claimant, has set up MACP No.819 of 2008 on the premise that on 31-10-2008, while she was pillion rider on the Motorcycle driven by her son-in-law namely Ajay Kale on Nagar-Daund road, Motorcycle suffered dash given by S.T.Bus bearing No.MH-20 D-9124 coming from opposite direction. Appellant claimed that her son-in-law Ajay Kale died on the spot and she suffered various fracture injuries and ultimately suffered 30% permanent disability and thereby she set up claim of Rs.2,00,000/- under various heads.
8. Respondent nos.1 and 2 were served with notice and they

appeared. Respondent no.2 filed written statement at exh.13. Respondent no.1 filed purshis and adopted the written statement filed by respondent no.2.

9. On appreciation of evidence adduced by the claimant, learned Tribunal recorded a finding that, claimant succeeded in proving that there was rashness and negligence on the part of S.T. Driver causing grievous injuries to her and that she suffered permanent disability and thereby, learned tribunal awarded compensation of Rs.1,30,000/-, which was directed to be paid jointly and severally by respondent nos.1 and 2.

10. Now, in the instant appeal, grievance raised is about non-consideration of future prospects only. Claimant has allegedly suffered 30% permanent disability, but learned Tribunal has considered only 15% permanent disability. In support of her claim, claimant has adduced certificate of permanent disability at exh.21. Admittedly, claimant was a home maker.

The Hon'ble 3 Judges Bench of Hon'ble Apex Court in the case of *Kirti v. Oriental Insurance Company Limited*, 2021 SCC Online SC 3, has held that "*The attempt of Court should be towards*

*determining, in the best possible manner, the truest approximation of the value added by homemaker for the purpose of granting monetary compensation and thereby Hon'ble Apex Court has endorsed entitlement of all victims to receive future prospects including homemaker'*

Here, admittedly, claimant has ascertained 30% permanent disability and has placed on record certificate issued by medical practitioner. Merely failure on her part to examine medical practitioner, would not be sufficient to overlook the permanent disability certificate placed before learned Tribunal. Even otherwise she has claimed total compensation of Rs.2,00,000/-. Learned Tribunal has already granted Rs.1,30,000/-. Therefore, in the fitness of things and relying on the above judicial pronouncement of Hon'ble Apex Court, it would be just to enhance compensation by granting lumpsum amount of Rs.70,000/- for said permanent disability. Accordingly, following order is passed :

### **ORDER**

- I. Impugned judgment and award dated 21-02-2012 passed by the Chairman, MACT, Ahmednagar in MACP No.819 of 2008 stands modified.

- II. The original claimant is entitled for enhanced compensation of **Rs.70,000/-** along with interest @ 7.5% per annum from the date of filing of petition till the date of realization of the amount.
- III. Respondent no.2/MSRTC to pay enhanced compensation amount of **Rs.70,000/-** to claimant within 12 weeks from today along with interest @ 7.5% per annum from the date of registration of claim petition till its realization.
- IV. Rest of the award of the learned Tribunal is maintained.
- V. Respondent no.2/MSRTC to deposit the amount of enhanced compensation along with interest thereon in this Court.
- VI. On deposit of amount by the Respondent no.2/MSRTC, original claimant is permitted to withdraw the same along with interest, if any.
- VII. Modified award be prepared accordingly.
- VIII. Claimant to pay court fees on enhanced compensation as per Rules.
- IX. The Appeal is disposed of in above terms.

**( ABHAY S. WAGHWASE )**  
**JUDGE**