

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 94 OF 2000

The Oriental Insurance Company Ltd.,
through its Branch Manager,
Gandhi Chambers, Sarojini Devi Road,
Jalna, District Jalna, through
its Duly Constituted Attorney
Jugalkishore Rampal Karwa,
Age : 59 years, Senior Divisional
Manager, the Oriental Insurance Co. Ltd.,
Adalat Road, Aurangabad,
District Aurangabad

APPELLANT

VERSUS

1. Pandharinath s/o Narayanrao
Tattupatil, Age : 30 years,
Occu. Agri & Tailoring,
R/o Rohilagad, Tq. Ambad,
District Jalna
2. Santosh s/o Vidyagram Agrawal,
Age : Major, Occu. Business,
R/o Jalgaon Road, Sillod,
Tq. Sillod, Dist. Aurangabad

RESPONDENTS

Mr. A.A. Joshi, Advocate for the appellant
Mr. Avishkar A. Shelke, Advocate for respondent No. 1
None for respondent No. 2 though served

CORAM : M.T. JOSHI, J.

DATE : 20/02/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. The only issue involved in the present appeal is regarding the quantum of compensation as raised by the present appellant – the insurer of the vehicle.
3. The material facts would show that in a motor vehicular accident, the respondent No. 1 – the claimant before the learned Member, Motor Accident Claims Tribunal had received the following injuries:-
 - (I) Fracture of supraorbital rim (right side)
 - (II) Fracture of zygoma (right side)
 - (III) Fracture of condyle
4. The Medical Officer of Rural Hospital, Bhokardan had issued permanent disability certificate at Exhibit-24, which would show that the respondent No. 1 had sustained 35% permanent disability. He claimed to be a tailor. The documents regarding expenses on treatment, transportation were produced. In the circumstances, taking into consideration all the facts

on record, the learned Member has awarded an amount of Rs. 75,000/- towards the loss of working capacity, Rs. 70,000/- towards the expenses of treatment and medicines, Rs. 25,000/- towards transportation. Further, Rs. 5000/- towards the special diet, Rs. 15,000/- towards the pain and sufferings, were granted and thus, the total compensation of Rs. 1,28,100/- was granted.

5. Mr. A.A. Joshi, learned counsel for the appellant submitted that in fact, there could not have been any permanent disability, resulting into loss of income in view of the injuries suffered by the respondent No.1.

. The learned counsel for respondent No. 1, however, supports the reasoning of the learned Tribunal.

6. On the basis of above material on record and the submissions advanced on behalf of both sides, the following point arises for my determination:-

“Whether the compensation awarded by the learned Member of Motor Accident Claims Tribunal is just compensation ?”

My finding to the above point is in the affirmative. The appeal is, therefore, dismissed for the reasons to follow:-

R E A S O N S

7. The nature of the injuries, as detailed above, as well as the permanent disability suffered by the respondent No.1, in fact, would show that besides having permanent disability, there was loss of amenities also. The learned Judge has considered all the material on record and granted compensation on the basis of estimate arrived at by him. I do not find that the estimate arrived at by the learned Member is excessive one. In the result, the appeal fails. Hence, the following order:-

8. The appeal is hereby dismissed without any order as to costs. The respondent no. 1 would be at liberty to withdraw the amount deposited in this Court, after a period of sixty days from the date of this judgement.

9. In view of dismissal of the first appeal, civil application No. 1701/2000, for grant of stay, does not survive and hence, stands dismissed accordingly.

[M.T. JOSHI]
JUDGE

npj/fa94-2000