

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 307 OF 2001

Vimalbai Gorakh Karankal,
Age : 36 years, Occu. Nil,
R/o House No. 171, Near
School No. 14, Sakri Road,
Dhule

APPELLANT

VERSUS

1. Pradip Sitaram Patil @ Shinde,
Age : 30 years, Occu. Driver
and owner, R/o Tambapura,
Amalner, District Jalgaon,
permanent r/o Awadhan,
District Dhule

2. New India Assurance Co. Ltd.,
Yashovallabh Shopping Complex,
Opp. Municipal School, Dhule

RESPONDENTS

Mr. A.S. Kulkarni, Advocate holding for Mr. V.J.
Dixit, Senior Advocate for the appellant
Mr. Mohit Deshmukh, Advocate holding for Mr. S.G.
Chapalgaonkar, Advocate for respondent No. 2
None appears for respondent No. 1 though served

CORAM : M.T. JOSHI, J.
DATE : 19/01/2015

ORAL JUDGEMENT :

1. Heard both sides.
2. Aggrieved by the direction to pay lesser

compensation than claimed, the original claimant in a Motor Accident Claims Petition filed under section 166 of the Motor Vehicles Act is before this Court.

3. The pleadings as well as material on record would show that the present appellant, who was 30 years old at the time of filing of the claim petition has suffered amputation of right hand upto elbow due to motor vehicular accident, which is not now denied in view of non-filing of appeal by the respondents.

. The appellant was working as a casual worker with the Civil Hospital, Dhule. She placed on record the medical bills of private hospital for Rs. 19,131.55. It was certified that the appellant has suffered 80 per cent permanent disability. She has further pleaded that due to the disability suffered by her, chances to become permanent in service had been impaired. In these circumstances, the learned Member has granted an amount of Rs. 25,000/- towards pains and sufferings, Rs. 25,000/- towards the past, present and future loss of income and the amount towards the medical expenditure of Rs. 19,131.55 as detailed supra. Thus, the total compensation of Rs. 69,131.55 with interest at the rate

of 12% per annum from the date of filing of the petition was awarded.

3. Upon hearing both sides, it has become clear that during the pendency of the petition, the appellant/ original petitioner was, in fact, made permanent in service by the Civil Hospital, Dhule. In her cross-examination, she admitted this fact. The learned counsel for the appellant, however, submitted that the non-pecuniary damages granted by the learned Member are very meager.

4. Upon hearing both sides and finding that the learned Member of the Tribunal has lost sight of the admission of the present appellant in her examination-in-chief that she was made permanent in the job and has granted an amount of Rs. 25,000/- towards the loss of opportunity to become permanent in service. In my view, there is no need to interfere in the award of the learned Member who was considering the damages from the point of view of the period of the accident i.e. 14th February, 1994. In that view of the matter, the appeal fails. Hence, the following order:-

5. The appeal is hereby dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

npj/fa307-2001