

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
FIRST APPEAL NO.562 OF 1994

- 1) The Oriental Assurance Co.
Ltd., Brach Office, Parbhani

- C. Mohan s/o. Sinnaapan, Avge
Major, occ. Business, r/o.
2) Mugalpatti, Post. Tholur, Tq. : ..Appellants
Namkal, Dist. Seleam
(Tamilnadu State)

V E R S U S

- Vaijanath s/o. Anjoba Jadhav,
died through his L.Rs., age
1) 25 years, occ. Mechanic, r/o.
Gangakhed, Tq. Gangakhed,
Dist.parbhani

- Radhabai wd/o. Vaijanath
1-A Jadhav, age Major, occ.
Household, r/o. Hatkar Galli,
Gagakhed, Dist. Parbhani

- Manoj s/o. Vaijanath Jadhav,
age Minor, under the
1-B guardianship of his mother
Resp.No.1-A, Radhabai wd/o.
Vaijanath Jadhav

- P. Pallani Swamy s/o.
Pothanaikar Omaymal, age
2) Major, occ. Driver, r/o.
Karutupatti, Tq. Namakkal,
Dist. Selam (Tamil Nadu State)

- United Commercial Bank, 7/35,
East Main road, Nallipalayam,
3) Tq. Namakkal, Dist. Selam, Pin
637 003, through its Branch
Manager

- 4) United India Insurance : ..Respondents
Company, Branch Parbhani

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Mr.A.A.Joshi, advocate for appellant

Mrs.M.A.Kulkarni, advocate for respondents

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CORAM : M.T. JOSHI, J.

DATE : MARCH 02, 2015

ORAL JUDGMENT :

Heard both sides.

2] The only issue involved in the present appeal arising out of the award passed by learned Member, Motor Accident Claims Tribunal is, regarding the quantum of compensation.

3] The evidence on record would show that in the accident, original respondent no.1 - Vaijnath has suffered grievous injuries. The evidence on record would further show that Vaijnath has suffered fracture to his right leg. His right Patella was removed and for three times, it was plastered.

4] The evidence of Vaijnath that he was working as a Mechanic in a garage and was getting salary Rs.1,000/- per month was accepted by the learned Member of the Motor Accident Claims Tribunal. Considering the disability certificate issued by Dr.Dhutmal, which showed that Vaijnath suffered 40% permanent disability, learned Member estimated the loss of earning of Vaijnath at Rs.250/- per month i.e. 25% of his earnings. It was opined that Vaijnath would have worked for 30 years and therefore, multiplier of 30 was applied. There is no grievance regarding grant of the medical expenses.

5] On the basis of this material, following point arises for my determination :-

Whether the compensation awarded by the learned Member is just compensation ?

. My findings to the above point is in the affirmative and the appeal is therefore, dismissed without any order as to costs, for the reasons to follow.

R E A S O N S

6] Learned Member has accepted that Vaijnath was earning salary of Rs.1000/- per month. The certificate issued by the Doctor showed that he suffered 40% permanent disability. The nature of work of Vaijnath and the nature of the injuries suffered by him i.e. removal of right Patella,

would show that the loss of earnings calculated by learned Member of 25% of his earning, would not be proper.

7] In my view, considering the nature of the occupation of Vaijnath, the permanent disability would be 50%. If multiplier of 18 is applied, as he was 23 years old at the time of the accident, then, the issue of application of multiplier of 30 (applied by learned Member of the Tribunal) would be insignificant.

8] In the result, the appeal is dismissed.

9] Respondent nos.1A and 1B are at liberty to withdraw the amount already deposited either in this Court or into Tribunal.

[M.T. JOSHI, J.]