

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 347 OF 2001

Tukaram S/o Narayan Raut,
 Age-55 years, Occu.: Agriculturist,
 R/o Sawanstar, Post-Lonkarwasti,
 Tq. Kopargaon, Dist. Ahmednagar

.. Appellant
 (Orig. Applicant)

VERSUS

1] Genu Namdeo Mukunde,
 Age-50 years, Occu.: Driver,
 R/o Nagapur, Tq. Ahemadnagar,
 Dist. Ahemadnagar

2] Shantaram Sampatrao Gaware,
 Age-Major, Occu.: Transport Business
 & Supplier R/o Jeur Baijabaiche,
 Tq. & Dist. Ahemadnagar

3] The New India Insurance Company,
 (Summons to be served on its
 Divisional Manager),
 Near Ashoka Hotel, Ahemadnagar,
 Dist. Ahemadnagar

.. Respondents
 (Orig. Opponents)

Mr. P.R. Patil, Advocate for the appellant
 Mr. N.C. Garud, Advocate for the respondent no.1
 Mr. P.S. Pawar, Advocate i/b. Mr. R.S. Bihani, Advocate for
 respondent no.2
 Mr. S.G. Chapalgaonkar, Advocate for respondent no.3

CORAM : M.T. JOSHI, J.

DATE : 21/01/2015

ORAL JUDGMENT :

1. Heard both sides.

2. The present appeal has been filed by the original claimant aggrieved by the direction to pay lesser compensation than claimed in a petition under section 166 of the Motor Vehicles Act.

3. The petitioner was injured in a motor vehicular accident on 01/07/1993 when the goods truck bearing registration no.MWA-4387 has dashed to the car by which he was travelling. He claimed compensation of Rs.50,000/-, claiming that the truck driver i.e. original respondent no.1-Genu Mukunde was rash and negligent in driving the same. Therefore, the claim of compensation was made against all the respondents.

4. His case was that he was 55 years old at the time of the accident. He was carrying agricultural work. He has spent about Rs.10,000/- over the treatment. He has suffered permanent disability and, therefore, compensation of Rs.50,000/- was claimed.

5. Before the learned Member, it was found that while the accident has occurred near Mula Dam in Ahmednagar district, the appellant went forward after

the accident and got him treated at Karad. The case of memory loss was not accepted and it was ultimately found that the appellant would be entitled for compensation of Rs.10,000/- only. Hence, the present appeal.

6. The learned counsel for the appellant submits that certificate issued in the year 1999 would show that the appellant has suffered from loss of memory and loss of speech. In the circumstances, he submits that the amount of Rs.10,000/- granted is very meager amount.

7. On the other hand, Mr. Chapalgaonkar, learned counsel for respondent no.3 submits that the learned Member of the Tribunal has observed that in the witness box while the appellant has answered the questions put to him in clear terms, he was also able to hear the questions put to him. Further, it was also found that while the accident has taken place in the year 1993, the Medical Officer Dr. Dushing has passed the certificate on 17/12/1999 upon examining the appellant at that time. He therefore submits that the appeal be dismissed.

8. On the basis of this material, following point arises for my determination:-

. Whether the compensation granted by the learned Member of the Motor Accident Claims Tribunal is just compensation?

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

R E A S O N S

9. It is to be noted that while the accident has occurred in the year 1993 near Mula dam, in Ahmednagar district, the appellant went forward to Karad after the accident and, thereafter, took the treatment thereat. The medical bills would show that Dr. Shinde at Karad did not find any injury to brain. He has however certified that there was head injury causing 5% permanent disability. The medical bills however would not bear out these facts. As regards the evidence of Dr. Dushing, on his own, deposition, he has examined the appellant in the year 1999. Further, the learned Member had occasion to see the appellant in the witness box, observations of which are made in the award. In that

view of the matter, no interference in the award is warranted.

10. The appeal is therefore dismissed without any order as to costs.

[M.T. JOSHI]
JUDGE

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