

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 2084 OF 2014

Rajabhau S/o Vishwanath Shinde,
Age : 35 Years, Occu. : Driver
(at present Nil),
R/o Krishi Kendra, Jintoor Road,
Parbhani, Tq. & Dist. Parbhani. .. Appellant

Versus

1. Nivruti S/o Venkatrao Mundhe,
Age : Major, Occu. : Business,
R/o Thakur Colony, Gangakhed,
Tq. Gangakhed, Dist. Parbhani.
2. The New India Insurance Co. Ltd.,
Through its Branch Manager,
Yeshodeep Building, Shivaji Road,
Parbhani, Tq. & Dist. Parbhani. .. Respondents

Shri Pramod C. Mayure, Advocate for the Appellant.
Shri A. S. Usmanpurkar, Advocate for the Respondent No. 2.
The Respondent No. 1 is served.

CORAM : S. V. GANGAPURWALA, J.

DATE : 06TH OCTOBER, 2015.

ORAL JUDGMENT :-

. The present appellant had filed application for compensation on account of injury sustained by the appellant/claimant in an accident. The application is partly allowed. The present appeal is filed seeking enhancement of compensation.

2. Mr. Mayure, the learned counsel for the appellant strenuously contends that, the disability certificate is produced on record, which shows 80% disability. The doctor has been examined to prove the said fact. The fracture to the tibia fibula compound grade-1 right leg is established. However, the Tribunal has only granted Rs. 81,000/- as total compensation for the injury sustained apart from the medical bills. The learned counsel submits that, the appellant is 35 years of age. The multiplier of 16 would be applicable. Even no amount towards the future loss has been awarded. The learned counsel submits that, towards pains and sufferings Rs. 75,000/- and loss of amenity Rs. 15,000/- be also awarded. The learned counsel relies on the judgment of the Apex Court in a case of **Syed Sadiq and others Vs. Divisional Manager, United India Insurance Co. Ltd.** reported in ***2014 (4) Mh. L. J. 538***.

3. Mr. Usmanpurkar, the learned counsel for the respondent No. 2/Insurance company submits that, the Tribunal has considered that there is no actual financial loss to the claimant and has awarded lump-sum amount of compensation for the disability sustained. It is not that, the claimant is not in a position to perform his avocation. He can perform his job. No illegality has been committed.

4. I have considered the judgment and the record and proceedings. Disability certificate is proved. The doctor is

examined to prove the same. The claimant is 35 years of age. The claimant has claimed his income as Rs. 4,000/- per month, however, I do not find any evidence on record to substantiate his claim. I would consider the notional income as Rs. 3,000/- per month considering 80% disability and applying the multiplier of 16 the compensation on the said count would come to Rs. 1,03,618/-. The medical bills of Rs. 14,500/- are proved and the same is also awarded by the Tribunal. So also the hospital charges of Rs. 27,200/- are proved and is also awarded by the Tribunal, I would award the same. Towards the pains and sufferings and loss of future amenity I would award Rs. 25,000/- and Rs. 10,000/- respectively. Considering the above the claimant would be entitled for Rs. 1,80,318/-.

5. In the result the judgment and order passed by the Tribunal is modified. It is held that, the original opponent Nos. 1 and 2 are jointly and severally liable to pay an amount of Rs. 1,80,318/- to the appellant along with interest at the rate of rs. 7% per annum from the date of petition till realization. The amount already paid be adjusted as on the date the said payment is made. First appeal accordingly is partly allowed. No costs.

Sd/-

[S. V. GANGAPURWALA, J.]