

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO. 1330 OF 2014
WITH
CIVIL APPLICATION NO. 3517 OF 2014

Ajit S/o. Kisan Bhangre ... Appellant

Versus

The Divisional Controller,
M.S.R.T.C., Sarjapura, Ahmednagar ... Respondent

Mr. K. N. Shermale, Advocate for appellant.
Mr. M. K. Goyanka, Advocate for respondent.

CORAM : M. T. JOSHI, J.
DATE : JANUARY 29, 2015

ORAL ORDER

1. Heard both sides.
2. Admit.
3. Heard finally with consent of both sides.
4. The award of learned Member, Motor Accident Claims Tribunal, Sangamner, in Motor Accident Claim Petition No. 156 of 2009, delivered on 08-05-2013 would show that since the appellant herein-original claimant failed to file necessary certified copies of panchnama, spot of occurrence etc. and other documents to prove the injuries, the petition was dismissed.

5. Mr. Shermale, learned counsel appearing for the appellant submits that, in fact, written statement of present respondent would show that the accident had occurred, however, due to the negligence of the counsel for appellant-claimant before the tribunal, the case could not be prosecuted properly. He, therefore, submits that appeal be allowed and the case be remanded back to the tribunal.

6. Mr. Goyanka, learned counsel for the respondent opposes and submits that for negligence of appellant in proper prosecution of the petition, present respondent would unnecessarily be punished if matter is remanded to the tribunal.

7. Considering all the facts on record, in my view, the matter can be sent back to the tribunal for decision afresh.

8. Hence, the following order;

9. Appeal is allowed with no order as to costs. Impugned award by the learned Member of the Motor Accident Claims Tribunal, Sangamner, is set aside. The matter stands remanded to the learned Member of the tribunal with directions to allow the present appellant to file necessary documents within a period of eight weeks from the date of

appearance of the parties before the tribunal. Thereupon, learned Member of the tribunal to decide the claim petition afresh on its own merits, considering the documents those may be filed by the parties.

10. Parties to appear before the learned Member, Motor Accident Claims Tribunal, Sangamner, on 03-03-2015. The appellant-original claimant shall not be entitled to interest on the compensation, if any, awarded by the learned Member of the tribunal for the period from May-2013 till decision in the present appeal.

11. Permission to led evidence is hereby granted to both the parties.

12. In view of disposal of appeal, civil application for stay does not survive and stands dismissed as such.

(M. T. JOSHI, J.)

pnd