

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

20 FIRST APPEAL NO. 938 OF 2014

VIJAY NARAYAN IKKAR

VERSUS

MAHARASHTRA STATE ROAD TRANSPORT CORPORATION , PARBHANI

...

Advocate for Appellant : Mr. Mayure Pramod C

Advocate for Respondent : Mr. A.D. Wange

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th September, 2015

PER COURT :

1. The present appellant had filed application under section 166 of the Motor Vehicles Act on account of injury sustained by him in an accident. The claim is partly allowed. Aggrieved thereby, the present appeal for enhancement of compensation.

2. Mr. Mayure, the learned counsel for the claimant strenuously contends that the court, while awarding the compensation, has not considered compensation under various heads. The appellant, at the time of accident, was 35 years of age and has suffered 27% permanent disability and the same is proved on record. The court has only awarded medical expenditure and lump sum

amount of Rs.50,000/- towards permanent disability. The appellant was not paid salary for almost 2 and half years. The multiplier of 16 would be applicable. The learned counsel submits that as far as loss of salary is concerned, the appellant's salary was Rs.9000/- and odd, per month. Multiplier of 16 is applicable and if 27% disability is considered, the loss of income per annum would be Rs.25,920/-. Applying multiplier of 16, the amount of compensation would come to Rs.4,14,720/-. The applicant is entitled to the said amount. In addition to the same, the applicant is also entitled for salary of two and half years, which is not paid. The appellant was advised bed rest during the said period because of the injury sustained.

3. Learned counsel submits that even on account of non pecuniary damages, no amount is awarded, except medical expenses of Rs.60,000/-.

4. Mr. Wange, the learned counsel submits that the appellant has taken voluntary retirement. There is nothing on record to show that the because of injury sustained, the appellant would have got less salary.

Even according to the scheme applicable, if in an accident, because of personal injury, the person is not in a position to do the same work as he was doing at the time of accident, he is given a less tedious work protecting his pay. As such, there was no pecuniary loss.

5. I have considered the submissions.

6. The Apex Court, in **Syed Sadiq Vs. Regional Manager, United India Insurance Co. Ltd., reported in 2014 (4) Mh.LJ 538**as, in case of an injured who was working as a cleaner, has applied the multiplier and also awarded other non pecuniary damages.

7. In the present case, the claimant has incurred medical expenses to the extent of Rs.60,000/-. The same is also awarded by the tribunal. As far as loss of earning is concerned, considering 25% permanent disability, and applying multiplier of 16 and considering the net salary as Rs.8,000/- as is borne out from the salary certificate, loss of income would come to Rs.4,14,000/-. Towards medical expenses,

Rs.60,000/- are already awarded and for pains and suffering, I award Rs.25,000/-, that would be Rs.4,99,000/-. In the result, I pass following order:

1. Respondents shall pay to the appellant an amount of Rs.4,99,000/- alongwith interest @ 7.5% per annum from the date of petition till realization.
2. The amount already paid shall be adjusted as on date the said payment is made.
3. The appellant shall pay court fees on the remaining amount
4. The first appeal is accordingly disposed of. No costs.

(S. V. GANGAPURWALA, J.)

JPC