

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

**FIRST APPEAL NO. 928 OF 2014  
WITH  
CIVIL APPLICATION NO. 6070 OF 2013**

ICICI Lombard General Insurance Co. Ltd.,  
Aurangabad .. Appellant

**Versus**

Babru @ Baburao Nagnath Kamble  
and Another .. Respondents

Shri S. S. Patil, Advocate for the Appellant.  
Shri Ravibhushan P. Adgaonkar, Advocate for the Respondent  
No. 1.  
Respondent No. 2 served.

**CORAM : S. V. GANGAPURWALA, J.  
DATE : 08TH SEPTEMBER, 2015.**

**PER COURT :**

1. Mr. Patil, the learned counsel for the appellant submits that, the respondent No. 1 had filed an application for compensation on account of the injury sustained by him in an accident. The disability certificate produced on record shows the disability to the extent of 41%. However, while granting compensation the Commissioner, Workmen's Compensation, has considered total loss of earning capacity and awarded compensation, as if, the respondent No. 1 suffered 100% disability. According to the learned counsel, the same is improper, against the evidence on record and can not be substantiated.

2. Mr. Adgaonkar, the learned counsel supports the order.

3. This being an appeal under the Workmen's Compensation Act, has to be considered only on substantial question of law. The Commissioner, Workmen's Compensation, has assessed the evidence on record and has come to the conclusion that, because of the injury the respondent No. 1 is unable to work and sit properly. It is the case of shortening of leg. It appears that, the Commissioner, Workmen's Compensation, has considered 100% functional disability i.e. respondent No. 1 would not be in a position to work as a driver in future. The respondent No. 1 shall surrender his license with the R. T. O.

4. In light of the above, no substantial question of law arises. The first appeal is dismissed. No costs. Civil application also stand disposed of.

**[ S. V. GANGAPURWALA, J. ]**

sam/Sep. 15