

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

...

11 FIRST APPEAL NO. 1054 OF 2009

ARJUN JIVANRAO KUNTHE

VERSUS

DILIP GUNDERAO TELANG & ORS

...

Advocate for Appellant : Mr.Netaji Kale

Advocate for Respondent No.2 : Mr.M M Ambhore

...

CORAM : S. V. GANGAPURWALA, J.

DATE : 14th September, 2015

PER COURT :

1. The present appellant-claimant had filed the application under Section 166 of the Motor Vehicles Act claiming compensation on account of injury suffered by him in an accident. The Tribunal has awarded Rs.49,000/- as compensation. The present appeal is filed by the claimant for enhancement of compensation.

2. Mr. Kale, the learned counsel for the appellant submits that the disability certificate shows that the appellant has suffered 15% disability. Age of the appellant, at the time of accident, was 58 years, however, the Tribunal, while awarding compensation, has considered the age at the time of evidence. The

learned counsel submits that the tribunal ought to have considered 15% disability and multiplier 8 ought to have been applied. The appellant is doing agricultural work. The learned counsel submits that no amount is awarded towards non pecuniary damages.

3. Mr. Ambhore, the learned counsel for the Insurance Company supports the order and submits that the Court has considered the loss of past income as well as future income while awarding compensation amount. No illegality has been committed by the tribunal.

4. I have considered the submissions and I have also gone through the judgment so also the record and proceedings.

5. The fact that the appellant has suffered 15% permanent disability is born out from the disability certificate duly proved. The respondents do not appear to have denied the said disability certificate. However, at the time of accident, age of appellant was 58 years. It is a case of fracture to the thigh bone.

The appellant was only doing agricultural work. It would be case of loss of supervision charges. Considering the said aspects of the matter, as far as monetary loss is concerned, the court has properly evaluated the same.

6. Perusal of the judgment, it appears that no amount has been awarded towards pains and suffering and loss of enjoyment of life.

7. Considering the 15% permanent disability, I award Rs.25,000/- to the appellant on account pains and suffering so also another Rs.20000/- towards loss of enjoyment of life.

8. In the light of above, the appellant would be entitled for additional compensation of Rs.45,000/-. In the result, I pass following order:

- i. The appellant is held entitled for compensation amount of Rs.94,158/- including the amount under no fault liability. The respondents shall jointly and severally pay Rs.94,158/- to the appellant alongwith interest @ 9% per annum from

the date of claim petition till realization
of the amount.

ii. The amount already paid shall be adjusted as on
the date the said payment is made.

iii. The first appeal is accordingly partly allowed.

No costs.

(S. V. GANGAPURWALA, J.)

JPC