

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

FIRST APPEAL NO. 993 OF 2013

BABU BALIRAM BARAKU

VERSUS

1] VIJAYKUMAR RACHANNA PATIL

2] The United India Insurance Co.Ltd.

Through its Branch Manager, Degloor.

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Advocate for Appellant : Gadegaonkar Bharat N.

Advocate for Respondents : Kanade Arun G. For R/2

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CORAM : S.V.GANGAPURWALA,J.

DATED : 7TH OCTOBER, 2015

ORDER :-

The appellant had filed application u/s 166 of the Motor Vehicles Act on account of injury sustained by him in an accident. The Tribunal partly allowed the application. The present appeal is filed for enhancement.

2] Mr.Gadhegaonkar, learned counsel submits that the appellant having suffered 36% permanent disability is proved. Rods were required to be fixed in both the legs. According to the learned counsel, even loss of supervision charges are considered, the same could have been considered as Rs.3000/- p.m. The age of the appellant was 23 years as on the date of accident. Multiplier of 18 ought to have been applied. According to the learned counsel even under the non pecuniary heads a paltry sum is awarded. For medical

expenses also paltry sum of Rs.4000/- is awarded. The appellant was hospitalised from 15/12/2010 to 7/1/2011. Surgery was required to be performed on both his legs.

3] Mr.Kanade, learned counsel submits that the doctor has not been examined. The said fact of disability is not proved. The Tribunal has taken a liberal approach and has awarded more compensation amount.

4] I have considered the submissions. The appellant is an agriculturist and the loss is only of supervision charges. It also cannot be said to be a total loss. It is not the case that the appellant would not be in a position to supervise. Considering the fact I am not inclined to award compensation by applying multiplier. Towards permanent disability. I would award Rs.50,000/-

5] Towards medical bills, only Rs.4000/- is awarded as the bills of nails are produced on record. It can be considered that the appellant was admitted in the hospital from 15/12/2010 to 7/1/2011, surgery was required to be performed on both his legs for fixation of rods. Naturally amount would be required to be spent for surgery for staying in the hospital and even if it is assumed that he was operated in Government hospital, I would award Rs.20,000/- on the said account. Towards pains and sufferings, paltry sum of Rs.10,000/- is awarded. Considering the amount awarded in the case of **Syed Sadiq Etc. Versus Divisional Manager, United Ins.Co. Reported in 2014 AIR (SC) 1052**, I would award Rs.25,000/- towards pains and sufferings. Towards special diet Rs.10,000/- is awarded which is legal and proper. Towards loss of income, I would award Rs.20,000/-, as such the claimant would be entitled for total compensation of Rs.1,25,000/-. In the result, I pass following order :

6] The order passed by Tribunal is modified. It is held that the respondent shall pay compensation of Rs.1,25,000/- to the appellant inclusive of amount towards no fault liability alongwith interest at the rate of 9% p.a. from the date of Petition till realisation. Amount would be adjusted as on the date the same would be paid. Appeal is disposed of. No costs.

[S.V.GANGAPURWALA,J.]

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