

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

FIRST APPEAL NO.1716 OF 2014

Jaiprakash s/o Chudaman Waghmare
Age 37 years, Occ-Service as Junior Asst.
in Z.P. Nanded, r/o Wachmannagar
CIDCO, Nanded, Tq. & Dist.Nanded

.. APPELLANT
[Orig.Respondent]

Versus

Vithal s/o Narsingrao Jadhav
Age 41 years, Occ-Labour
R/o Malhar Nagar, Kandhar
Tq. Kandhar, Dist.Nanded.

.. RESPONDENTS
[Orig.Petr.]

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Shri S.B.Ghatol Patil,Adv. for appellant
Shri G.G.SuryawanshiAdv.for respondent.

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CORAM : S.V.GANGAPURWALA,J.

DATED : 21ST SEPTEMBER, 2015

ORAL ORDER :-

Mr.Ghatol Patil, learned counsel submits that while passing award u/s 140 of the Motor Vehicles Act (hereinafter referred to as the M.V.Act for short), the existence of permanent disability is a sine-quo-none, without existence of permanent disability provisions of Section 140 of M.V.Act cannot be invoked. According to the learned counsel in the present case, there is no permanent disability, as such provisions of Section 140 of M.V.Act are not applicable.

2] Mr.Suryawanshi, learned counsel submits that the certificate of

permanent disability is produced on record. 20% permanent disability has been suffered by the claimant. The award is rightly passed.

3] There cannot be any debate with the proposition that while considering application u/s 140 of M.V.Act, existence of permanent disability is a must. Perusing the impugned order, the Court has observed that the petitioner has produced disability certificate Form-Com-B which shows that he has sustained 20% permanent disability. The injury certificate also shows fracture and minimal displaced tibia. The injury is described as grievous injury. The Court has relied on the permanent disability certificate produced on record to the extent of 20%.

4] Considering the above, I am not inclined to entertain the present appeal. Even otherwise while passing an order u/s 166 of M.V.Act, existence of permanent disability is not a sine-quo-none, the injury suffered is sufficient. If Court ultimately comes to the conclusion that the claimant had not suffered permanent disability, then the amount awarded while passing award u/s 140 of the M.V.Act can be adjusted at that time. Considering the above, present appeal is disposed of. No costs.

5] In view of disposal of Appeal, the claimant would be entitled to withdraw the amount deposited however the same would be subject to the final orders that would be passed by the tribunal u/s 166 of the M.V.Act. In view of disposal of Appeal, Civil Applications disposed of.

[S.V.GANGAPURWALA,J.]

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