

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

FIRST APPEAL NO.: 401 OF 2000

Milind S/o Ashokrao Goswami,
Age: 23 years, Occ.: Service,
R/o. Vivekanand Puram,
Latur.

... **APPELLANT/CLAIMANT.**

VERSUS

1. Dattatraya S/o Bhagwan Warhade,
Age: Major, Occ. Service Bus Driver,
R/o. Inchagaon Post Begampur,
Tq. Mohal, Dist. Solapur.

2. Depot Manager,
Maharashtra State Road Transport
Corporation, Karmala through its
Divisional Controller,
M.S.R.T.C., Latur.

... **RESPONDENTS**

Advocate for the Appellant: Mr. C. R. Deshpande.
Advocate for the Respondent Nos.1: Mr. S.S. Manale.
Advocate for Respondent No.2: Smt. R. D. Reddy.
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CORAM:-

T. V. NALAWADE, J.

DATED:-

11th JANUARY, 2016.

JUDGMENT:

1. The appeal is filed against judgment and Award of claim petition No.281 of 1995 which was pending before Member of Motor Accident Claims Tribunal, Latur. The original claimant, injured has filed the appeal for enhancement of

compensation. Both sides are heard.

2. It is the case of the claimant that in the accident he sustained grievous injuries to his right foot and he sustained other injuries like imputation of right middle finger and due to that earning capacity has come down. He has contended that prior to the accident he was working in a private company as mechanical engineer. He has contended that due to injuries he cannot work as mechanical engineer. He is B.E. In Mechanical Engineering. He had claimed that he was required to spend around Rs. 31,857/- on medicines and he was required to avail leave during the period of treatment. Under various heads he had claimed the compensation of Rs.3 Lakh. The other side has disputed aforesaid contentions.

3. To substantiate the claim, the claimant examined himself and gave evidence as per aforesaid contentions. He produced bills of medicines, injury certificate, disability certificate and copies of police papers. He examined Dr. Patil who is M.S., Surgeon to prove the disability.

4. The Tribunal has granted compensation under the heads like amount spent on medicines, the head of mental pains and suffering, the head of amounts spent on convenience for going to

the hospital and loss of salary income during the period of treatment. Total amount of Rs. 72,850/- is awarded on the principal of fault.

5. It is contended by the claimants that he lost the service but he has not produced anything to show that due to injuries he was terminated from service or he was required to leave the job. In view of the circumstances, no amount can be given under the head of loss of future income. However, there was injury to right foot and he has lost right middle finger. The Tribunal has also held that the claimant must not have attended the duty for about 4 months in view of the nature of injury. In the discharge card prepared by Pune Medical Foundation, Rubi Hall Clinic, there is a mention that there was a fracture of right foot and fracture of right middle finger. He was indoor patient from 26th April, 1995 to 4th May, 1995 and 20th May, 1995 to 21st May, 1995. There is disability certificate at Exhibit-77 showing that due to the aforesaid injuries there is total permanent disability to the extent of 18%. It is not disputed that the claimant was working as mechanical engineer in one company of which record is produced. It is also not disputed that the claimant was unmarried at the relevant time. He has given evidence that his marriage was settled prior to the accident but due to the injury sustained by him even after the engagement the other side refused to marry with him. He was

aged about 23 years at the relevant time. In view of the aforesaid un rebutted evidence it was necessary to the Tribunal to grant compensation under the head of permanent disability, separately. Similarly, compensation ought to have been granted under the head of loss of marriage prospects. Though, he may be in a position to marry, due to the injuries he will be required to compromise few things and this probability cannot be ignored. Compensation is given under one head of pains and suffering and that needs to be corrected. This Court holds that under the head of pains and suffering the amount of Rs.5,000/- can be given but under the head of permanent disability amount of Rs.50,000/- needs to be given and under the head of loss of marriage prospects the amount of Rs.25,000/- needs to be given. Some more amount needs to be given under the head of amount spent on convenience as the claimant is resident of Latur and he was required to take treatment in Pune. In view of these circumstance, this Court holds that total amount of Rs.1,37,857/- needs to be given as compensation on the principal of fault. The Tribunal has granted interest at the rate of 12% p.a. This Court holds that interest at the rate of 9% can be granted on amount of enhanced compensation from the date of the petition till the date of realisation. So, following order is made:

6. The appeal is allowed. The judgment and Award of the

Tribunal is modified to make compensation as Rs.1,37,857/-.
The enhanced amount is to be given along with interest at the rate of 9% p.a. and the interest will be payable from the date of the petition till the date of realisation. After deposit of the amount, the amount is to be given by account payee cheque to the claimant. Award is to be prepared accordingly.

(T. V. NALAWADE, J.)

Dated:11/01/2016.
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