

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

FIRST APPEAL NO. 340 OF 2003

Zameer s/o Mansoor Patel

Age : 21 Yrs., Occ. Agril.,

R/o : Gharola, Tq. Chakur,

Dist. Latur.

.... APPELLANT/

[ORI. CLAIMANT]

V E R S U S

1. Shaikh Javed s/o Shaikh

Huzursab, Age : 40 Yrs.,

Occ. Business, R/o : Nevly,

Tal. and Dist. Nanded.

2. United India Insurance

Through its Branch Manager,

Main Road, Tilak Nagar,

Latur.

.... RESPONDENTS/

[ORI. RESPONDENTS]

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Mr. N.B.Patil (Raiwadikar), Advocate for Appellant.

Mr. A.M.Gaikwad, Advocate for R.No. 1.

Mr. V.N.Upadhye, Advocate for R.No. 2.

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CORAM : T.V.NALAWADE, J.

DATE OF JUDGMENT : 8th FEBRUARY, 2016

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JUDGMENT :

1. The Appeal is filed by the original claimant of M.A.C.P. No. 581/1998 which was pending before the Motor Accident Claims Tribunal, Latur to challenge the quantum of compensation. Learned counsels for both sides are heard.

2. At the relevant time, claimant was aged about 18 years and he was cultivating the family land. It is his case that a truck gave dash to him and he sustained injuries in the accident. According to him, injuries were sustained to the head and left eye and during treatment, his left eye was required to be removed and so he has lost vision of left eye. He has contended that there was fracture to 2nd Metacarpal bone and due to that also he is suffering from permanent disability. It is his case that he can not do hard work due to the injuries and he has lost earning capacity. He has studied up to 10th standard. Under various heads, he had claimed the compensation of ₹ 2,00,000/- [Rupees Two Lacs].

3. The claim was contested by the insurance company by filing Written Statement. Claimant examined himself and his evidence is in accordance with the aforesaid

contentions. He has given evidence by giving source of income that he was taking vegetables in the field and he was getting good income from agriculture. 7/12 extract of the land is produced and the said record is consistent with his case.

4. Discharge card prepared by the Govt. Medical College and Hospital, Nanded and disability certificate issued by one Doctor of Ophthalmology department is produced. This record is consistent with the aforesaid case of the claimant. The claimant was indoor patient for more than 15 days and the evidence shows that his left eye was required to be removed. Due to the loss of vision of one eye and fracture to 2nd Metacarpal bone, the extent of disability is given as 47%.

5. Even when there is the evidence of aforesaid nature, the Tribunal has awarded compensation of ₹ 75,000/- only. The accident took place in the year 1998 and the claimant was aged about 18 years at the relevant time. When there is record of aforesaid nature, the Tribunal could have presumed that the monthly income of the

claimant was at least ₹ 2,000/-. The Tribunal could have presumed that the earning capacity has come down by 50% and so there is monthly loss of future income of ₹ 1,000/-. 18 can be adopted as multiplier for ascertaining future loss of income. Thus, future loss of income comes to ₹ 2,16,000/- [1000x12x18]. The amount of ₹ 10,000/- could have been given under the head pain, sufferings and permanent disability and amount of ₹ 10,000/- could have been given under the head of amount spent on medicines, treatment, conveyance, attendance, etc. Thus, the total amount of compensation comes to ₹ 2,36,000/-.

6. This Court holds that the Judgment and Award needs to be modified to make the compensation ₹ 2,36,000/-.

7. In the result, following order is made.

[i] First Appeal is allowed.

[ii] The Judgment and Award of the Tribunal is modified to make the compensation ₹ 2,36,000/-. This amount is inclusive of the amount which must have been paid on the

principle of 'no fault liability'.

[iii] The interest @ 9% per annum will be payable from the date of petition till the date of realization of the entire amount. The amount, if any already paid is to be deducted from this amount.

[iv] Award is to be prepared accordingly.

[T.V.NALAWADE, J.]