

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1728 OF 2014

LAHU RAMRAO RODE
VERSUS
VIJAYKUMAR VISWANATH SOMANI AND ORS

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Advocate for Appellant Mr. Nitin K. Chaudhari
Advocate for Respondent No.3: Mr. D.S. Kulkarni h/f Mr. S.L. Kulkarni

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CORAM : V. K. JADHAV, J.
DATED : 5th APRIL, 2016

PER COURT:-

1. Being aggrieved by the judgment and award dated 21.4.1999 passed by the learned Member, M.A.C.T. Aurangabad in M.A.C. No. 1 of 1992, the original claimant has preferred this appeal for enhancement of compensation.

2. Brief facts, giving rise to the present appeal, are as follows:-

a) On 20.6.1992, the claimant was going towards Paithan on his motor cycle and he was riding his motor cycle from correct left side of the road. At that time, one Ambassador car bearing registration No. MFC-138 came from opposite direction and gave a dash to the motor cycle of the claimant. In consequence of which, the claimant had fallen down from his motor cycle and sustained injuries. Furthermore, the

injuries sustained by him resulted into permanent disablement. Thus, the claimant had filed claim petition before the M.A.C.T. Aurangabad for grant of compensation under various heads.

b) Respondent No.1-owner of the vehicle, involved in the accident, has resisted the claim by filing written statement and it is denied that respondent No.2 was driving the car in rash and negligent manner. Respondent Nos. 2 and 4 have not contested the claim petition. Respondent No.3 insurer has resisted the claim by filing written statement. Respondent No.3 insurer has raised statutory defence that respondent No.2 was not having any valid and effective driving licence. The claim petition was also resisted on the ground that the claimant himself was responsible for accident and accident occurred due to negligence on his part alone. The learned Member of the Tribunal, by its impugned judgment and award dated 21.4.1999 partly allowed the claim petition and thereby directed respondents 2 to 4 jointly and severally to pay compensation amount of Rs.38,000/- with interest from the date of application till realization of amount. Hence, this first appeal is preferred by the original claimant for enhancement of compensation.

3. The appeal is preferred by the claimant for enhancement of compensation. It is not disputed that the accident was caused on account of rash and negligent driving of driver of Ambassador car and claimant has sustained injuries. In consequence of said accident and injuries sustained by the claimant, he suffered permanent disablement. It is also not disputed that the claimant was responsible for the accident or that he has contributed the negligence in any manner.

4. As per the evidence of claimant, he had sustained injuries on his right leg and his right leg was fractured. He was admitted in the Government hospital as an indoor patient for 4 days and thereafter taken follow up treatment for 2 ½ years. The claimant has deposed that he incurred amount of Rs.25,000/- for medical treatment. However, the claimant has not produced any document or bill to that effect to support his contention. Furthermore, the claimant has deposed that prior to the accident, he was getting income of Rs.1,00,000/- per annum from the agriculture land and after the accident, he is getting Rs.45,000/- per annum. Learned Member of the Tribunal has observed that the claimant has only 3 ½ acres of agriculture land. The claimant has deposed that there is sugarcane crop and sweet lemon in his land. The claimant has also

not given details of loss of future income. Even in absence of any income proof in respect of loss of income, learned Member of the Tribunal has awarded Rs.20,000/- on that count. Furthermore, even though there is no documentary evidence to support the contentions of claimant about medical expenses incurred by him, learned Member awarded Rs.20,000/- on that count. Furthermore, the Tribunal has also awarded Rs.10,000/- for inconvenience, pain etc. It appears that, considering the disablement sustained by the claimant, the loss of future income and also medical expenses might have been incurred by him, the learned Member of the Tribunal has awarded just and reasonable compensation. I do not find any fault in the impugned judgment and award. There is no merit in the appeal and thus, the appeal is hereby dismissed. In the circumstances, there shall be no order as to costs.

(V. K. JADHAV, J.)

rlj/