

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.
APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 651 OF 2004

Zilla Parishad, Nanded,
Through its Chief Executive Officer.

... **APPELLANT**

VERSUS

1. B. Ramareddi s/o Muttyamreddi Kinikar,
Age : 58 years, Occup : Pensioner,
R/o: Zilla Parishad Colony, Nanded,
Dist.: Nanded.

2. Deputy Director of Health
Services (Transport), Pune.

... **RESPONDENTS**

...
Ms Yogita M. Kshirsagar, Advocate for Appellant.
Mrs. A. N. Ansari, Advocate for Respondent No.1.
...

CORAM : **P. R. BORA, J.**
DATE : 21st July, 2016.

ORAL JUDGMENT:

. The Appellant has filed the present appeal taking exception to the judgment and award passed on 6th January, 2004 passed by IInd Additional District Judge, Nanded, in M.A.C.P. No.182 of 1998. The aforesaid claim petition was filed by the present

Respondent claiming compensation for the injuries caused to him in the vehicular accident occurred on 17th December, 1997, having involvement of a Tempo owned by the present Appellant. It was the case of the present Respondent that the said accident happened because of the rash and negligent driving of the driver working under the control of present Appellant. It was the further contention of the Respondent that he suffered 40% disablement because of the injuries caused to him in the said accident. He had, therefore, claimed compensation of Rs.3,00,000/- from the present Appellant.

2 Initially the claim petition was decided *ex-parte* since the present Appellant failed in causing appearance in the said petition. The said *ex-parte* award was challenged by the present Appellant before this Court by filing First Appeal No.1149 of 2003, which was decided on 7th October, 2003, and this Court was pleased to remit back the matter to the Tribunal for deciding it afresh by giving opportunity to the present Appellant for filing its written statement and to adduce evidence, if so desired. After remand, the learned Tribunal again adjudicated the claim petition and passed an award on 6th January, 2004 and thereby partly allowed the claim petition. The Tribunal has awarded compensation to the tune of Rs.1,97,708/-. The

award so passed is challenged in the present appeal.

3 The learned counsel for the Appellant submitted that the Tribunal has utterly failed in considering that without driver being added as a party to the said claim petition, the claim petition was not maintainable. According to the learned counsel, on that ground alone, the said petition ought to have been dismissed. The second objection raised on behalf of the Appellant is that the Respondent Claimant had failed in proving the injury caused to him and had also not proved the disability certificate by adducing any cogent and sufficient evidence. The third point raised by the learned counsel for the Appellant was as regards the ownership of the vehicle in question. According to the learned counsel, the vehicle involved in the accident was not owned by the present Appellant on the date of accident.

4 The learned counsel for the Respondents i.e. original Claimants has resisted the contentions raised on behalf of the Appellant. The learned counsel has supported the impugned judgment and has prayed for dismissal of the appeal.

5 After having heard the learned counsel appearing for the respective parties and on perusal of the impugned judgment and the

evidence on record, apparently it does not appear to me that any interference is warranted in the award impugned in the present appeal. The objections, which are raised in the present appeal are specifically dealt with by the Tribunal in the impugned judgment. On perusal of the judgment, it is revealed that the Tribunal has elaborately discussed the cause of accident and has held responsible, the driver of the vehicle, who was admittedly in the employment of the present Appellant, for the occurrence of the said accident. In so far as ownership of the vehicle is concerned, the Tribunal has categorically held that the vehicle was owned by the present Appellant. Even the said fact has been admitted by the present Appellant in the written statement. In view of the clear admission in the written statement, in fact no such ground ought to have been raised as regards the ownership of the vehicle. In paragraph No.13 of the judgment, the learned Tribunal has referred to the Government Resolution dated 18th September, 1995, which clearly reveals that the vehicle in question was transferred in the name of the present Appellant and it was a specific stipulation while transferring the vehicle in the name of the Appellant that the maintenance of the said vehicle thereafter, will be done by the Appellant and it has been also stipulated that all the

other responsibilities including that of payment of compensation in the event of accident to the injured person will be of the present Appellant. Considering the facts as aforesaid, there seems no substance in the objections so raised by the Appellant.

6 In so far as proving of injury and injury certificate is concerned, it is not in all the circumstances necessary that the medical evidence has to be adduced if from the evidence on record the Court is in a position to reach to certain conclusion. The learned Tribunal has observed that the Dean of the Sasoon Hospital, Pune, has certified that the left leg of the Respondent has been amputated because of the injuries caused to him in the accident. In the circumstances, it does not appear to me that the Tribunal has committed any error in computing the amount of compensation.

7 After having considered the entire material on record, it does not appear to me that the Tribunal has committed any error in awarding the compensation of Rs.1,97,708/- to the Respondent / Claimant. No case is made out for causing any interference in the impugned award. The appeal, therefore, fails. It is accordingly, dismissed. However, no order as to costs. The Respondent i.e.

original Claimant is permitted to withdraw the amount of compensation lying in this Court deposited by the present Appellant alongwith interest accrued thereon.

[P. R. BORA, J.]

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