

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

6 FIRST APPEAL NO.2450 OF 2016

RAGHUNATH RAJARAM BAISANE
VERSUS
BAJAJ ALLIANZ GENERAL INSURANCE CO. LTD. AND ANR

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Advocate for Appellant : Ms. Kazi Sabahat T.
Mr. MR Deshmukh, Adv. h/for Mr. S G Chapalgaonkar
For R/1;
Mr. RS Wani, Advocate For R/2.

CORAM : P.R.BORA, J.

DATE : 30th November, 2016.

PER COURT :

1) Heard finally by consent of learned counsel appearing for the parties. The present appeal is filed seeking enhancement in the amount of compensation awarded by Motor Accident Claims Tribunal, Dhule (for short, the Tribunal) in MACP No.696/2010 decided on 14th September, 2015. The enhancement in the compensation is sought on various grounds. It is submitted that the Tribunal has awarded inadequate sum towards permanent disablement to the appellant –

claimant. It is further contended that though there was sufficient evidence on record, the Tribunal has not awarded any amount to meet the future medical expenses. It is further submitted that towards the pains and sufferings, the Tribunal has not awarded any compensation. It is also contended that though the appellant – claimant was hospitalized for quite a long period, the attendant's charges are also not granted by the Tribunal. On all the aforesaid heads, the amount of compensation is sought to be enhanced.

2) The learned Counsel for the Respondent – insurance company has supported the impugned judgment. The learned Counsel submitted that though it appears that under certain heads no compensation has been awarded by the Tribunal, considering the amount as awarded by the Tribunal, same is sufficient considering the evidence on record and no interference is required in the impugned Judgment and Award.

3) I have carefully considered the submissions advanced by the respective parties. I have also gone through the evidence on record. In so far as compensation awarded towards incurring permanent disability, I do not see that the Tribunal has awarded any unreasonable amount. In Para 10 of the judgment, the Tribunal has elaborately discussed the evidence adduced on record and based on that, the amount has been awarded by the Tribunal. It appears to me that the amount as awarded by the Tribunal is just and sufficient and no further enhancement is required in the amount so granted.

4) On perusal of evidence of Dr. Saindane, it is however revealed that it was specifically deposed by the said witness that for further medical treatment, the claimant may be required to spend an amount of Rs.10,000/-. The said evidence was not challenged in the cross-examination. As such, there was no reason for

not allowing the said amount. I deem it appropriate to grant Rs.10,000/- to the claimant to meet the future medical expenses.

5) It further appears to me that the Tribunal has erred in not awarding any amount towards the pains and sufferings. Though it is a fact that the injuries have not resulted in causing any such permanent disability, which may have any impact on the earning capacity of the appellant – claimant, it cannot be forgotten that it may certainly have an effect in enjoying amenity of life by the appellant claimant. Having regard to the age of the appellant claimant and considering the fact that he will have to lead his future life with the impairment caused because of the accidental injuries, I deem it appropriate to award a sum of Rs.50,000/- toward pain and suffering.

6) Having considered the another fact that the appellant was hospitalized for a quite long

time, some amount ought to have been awarded by the Tribunal towards attendance charges. I deem it appropriate to grant Rs.10,000/- under the said head also.

7) For the reasons recorded above, I hold the appellant entitled for enhanced compensation of Rs.70,000/- in addition to the compensation awarded by the Tribunal with interest thereon at the rate of 9% p.a. from the date of application till its realisation. The award needs to be modified to the aforesaid extent. It be accordingly modified.

8) The appeal stands allowed and disposed of in the aforesaid terms.

(P.R.BORA)
JUDGE

bdv/