

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

FIRST APPEAL NO.548 OF 2005

The Executive Engineer,
Minor Irrigation Division No.1,
Aurangabad Road,
Ahmednagar.

...APPELLANT
(Ori.Oppo.No.2)

VERSUS

1. Sachin Suresh Shahane,
Age 32 years, Occu:Nil,
R/o. Pushkraj Complex,
Anand Nagar, Station Road,
Ahmednagar.

(Ori.Claimant)

2. Government of Maharashtra,
(Summons be served on
Collector, Ahmednagar.)
- (3. Block Development Officer,
Irrigation Department,
Khairi Project, Kharda,Tq.
Jamkhed, Dist. Ahmednagar.)

(Respondent no.3 deleted as per Court's order
dt.1.08.2005)

- (4. Ramesh Vyankoba Padelwar,
Age 42 years, Occu. Service,
R/o Khairi Project, Kharda, Tq.
Jamkhed, District: Ahmednagar)

(Appeal is abated as against respondent no.4
as per Registrar's order dt.31.1.2006)

...RESPONDENTS
(Res.No.1 Ori.Claimant
Nos. 2,3,4 ori.Resp.
No.1,3 & 4)

Mr.G.B.Rajale, Adv., for the appellant.
Mr.V.P.Latange, Adv., for respondent no.1.

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CORAM: P.R.BORA, J.

DATE : APRIL 25th, 2016.

ORAL JUDGMENT:

1. Original Opponent No.2 has filed the present appeal taking exception to the judgment and award passed in MACP No.644/1995, decided on 11.2.2005 by the Motor Accident Claims Tribunal at Ahmednagar.

2. The present respondent no.1 (hereinafter referred to as 'claimant') had filed the aforesaid petition claiming compensation on account of the injuries sustained by him in a vehicular accident happened on 2.3.1995 having involvement of car bearing No.MH-28/B-77 and tanker bearing No. MTO 237 owned by present appellant.

3. It was the contention of the claimant before the Tribunal that the accident in question happened because of rash and negligent driving by the driver of the tanker bearing No.MTO 237. It was his further contention that he suffered severe injuries in the aforesaid accident and incurred 30 per cent permanent disablement because of the injuries caused to him in the aforesaid accident. The left hand thumb of the claimant was required to be amputated because of the injuries caused to him in the aforesaid accident. As stated in the claim petition, claimant was working as a Goldsmith and was earning Rs. 2500/- per month. It was his further contention that

because of the amputation of his left thumb, he lost his earning capacity to a substantial extent and he had, therefore, claimed compensation amounting to Rs.2,00,000/- (Rs.two lacs).

4. The claimant examined himself before the Tribunal and duly proved the disablement caused to him in the alleged accident. The claim petition was resisted by the present appellant on several grounds. The income of the claimant was disputed and the percentage of disablement caused to him and its effect on his earning capacity was also disputed. The Tribunal, however, rejected the objections so raised by the appellant and partly allowed the claim petition. The Tribunal awarded total compensation of Rs.1,69,700/- (inclusive of amount paid under No Fault Liability) to the claimant.

5. In the present appeal, the impugned judgment is resisted mainly on the quantum of the compensation. Learned Counsel for the appellant submitted that claimant has failed to prove that he was doing the work of Goldsmith and, as such, his income ought not have been determined by the Tribunal by holding that the claimant was doing the work of goldsmith. Learned Counsel invited my attention to the discussion made by the Tribunal in paragraph nos. 10 to 12. Learned Counsel submitted that the impugned award needs to be modified.

6. I have carefully gone through the impugned judgment. The Tribunal has elaborately discussed about the injuries caused to the original claimant and the job which was being done by the claimant at the relevant time. There was sufficient evidence on record to draw an inference that deceased was carrying out the work of goldsmith. I do not see

that the Tribunal has committed any error in recording such finding. Further, the Tribunal has rightly held the income of the claimant and accordingly has determined the amount of compensation. The compensation determined by the Tribunal is just and fair. There is no substance in the objection raised by the appellant that compensation awarded to the claimant is unreasonable. There appears no reason for causing interference in the impugned Judgment and Award. Appeal is devoid of any substance. Hence the following order:

ORDER

- 1) The First Appeal is dismissed without any order as to the costs.
- 2) Original Claimant is permitted to withdraw the amount deposited by the appellant before the executing Court along with interest accrued thereon, if he has not already withdrawn the same.
- 3) Pending Civil Applications, if any, stand disposed of.

(P.R. BORA, J.)

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AGP/548-05fa