

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

FIRST APPEAL NO. 3047 OF 2009

Ramchandra s/o Srirang Jangale
Age: 52 years, Occu. Agril.,
R/o.Kolangra, Tq. Ausa Dist. Latur

....Appellant.
(Ori.Claimant)

Versus

1 Laxman s/o Sandipan Tidke
Age: 35 yrs., Occu. Business.
(Owner of Minidor)
R/o. Samudraga Tq. Ausa dist. Latur.

2 The National Insurance Co.Ltd.
Through its Branch Manager,
Main Road, Latur.

....Respondents.
(Ori.Claimants)

Ms. M.L. Dharashiv, advocate for Appellant.

Mr. S.S. Manale, advocate for respondent No. 1.

Mr. S.V. Kulkarni, advocate for respondent No. 2.

CORAM : T.V. NALAWADE, J.

DATED : 8th February,2016.

JUDGMENT :

1) The appeal is filed to challenge the judgment and award of Claim Petition No. 44/2005, which was pending before the Claims Tribunal, Latur. Both the sides are heard.

2) The Tribunal has dismissed the claim by observing that the claimant has failed to prove that he sustained injuries in

road traffic accident and it is further observed that the circumstance that F.I.R. was given one year after the accident needs to be used against the claimant.

3) This Court has carefully gone through the original record, which includes the case paper prepared by Government Hospital and M.L.C. This record shows that the case was referred by police as road traffic accident case of AUSA. The claimant was admitted in the hospital on the same day i.e. on 16.1.2004. He sustained fracture injuries and it is his case that he is suffering from permanent disability. Though he gave report very late, there is record of aforesaid nature. It needs to be ascertained as to what action was taken by police on the F.I.R. given by the claimant, though it was late. This Court holds that such opportunity needs to be given to the claimant and for that, matter needs to be remanded back.

4) In the result, the appeal is allowed. The judgment and award of the Tribunal is hereby set aside. The matter is remanded back to the Tribunal for fresh trial. The Tribunal is to give opportunity to both the sides, even to file written statement and to lead the evidence. The parties are to appear before the Tribunal on 11.3.2016. Record be sent back to the Tribunal. The

Tribunal is to dispose of the matter expeditiously and in any case, within three months from the date of receipt of the record.

[T.V. NALAWADE, J.]

SSC/