

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

FIRST APPEAL NO.: 1177 OF 2005

Rajkumar @ Kumar S/o Giramappa Hinde,
Age 42 years, Occu.: Agril. & Business,
R/o: Pangaon, Tq. Renapur, Dist. Latur.

... **APPELLANT**
(ORIG.CLAIMANT)

VERSUS

1. Tukaram S/o Girjappa Sathe,
Age: Major, Occu: Business,
R/o: Prakash Nagar, Latur.
2. The Branch Manager,
National Insurance Company Ltd.,
Hanuman Chowk, Latur.

... **RESPONDENTS**
(ORIG. RESPONDENTS)

Advocate for the Appellant: Mr. R. K. Ashtekar.
Advocate for Respondent No.2: Mr. S. P. Chapalgaonkar.
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CORAM:-
DATED:-

T. V. NALAWADE, J.
18th JANUARY, 2016.

JUDGMENT:

1. The appeal is filed to challenge the judgment and Award of claim petition No.251 of 2001 which was pending before the Claims Tribunal, Latur. Original claimant has challenged the decision only on the point of quantum of compensation. Both the sides are heard.

2. It is the case of the claimant that he sustained injuries like fracture to his thigh and due to that he is suffering from permanent disability. It is his case that he was required to spend much amount on treatment, medicines, attendance etc. He had claimed the total compensation of Rs.1.5 Lakh. The Tribunal has given the compensation of Rs.25,000/- only.

3. The submissions made and record show that it is not disputed that the claimant sustained fracture injury which was fracture of shaft femur left. Permanent disability certificate was produced but the doctor was not examined to prove the extent of permanent disability and also to prove that the earning capacity has come down considering the occupation of the claimant. Due to these circumstances, the Tribunal has awarded compensation of Rs.25,000/- only.

4. Even if it is presumed that due to aforesaid injury the claimant is suffering from permanent disability, even under the principle of no fault the amount of Rs.25,000/- could have been granted. In the present case, the claimant has proved that some amount was spent on treatment and

medicines. The bills are of Rs.9,450/-. This Court holds that in addition to the amount of Rs.25,000/- the amount actually spent needs to be given to the claimant.

5. In the result, the appeal is allowed to enhance the compensation by Rs.9,450/-. The claimant will be entitled to get interest at the rate of 9% p.a. on this amount and the interest will be payable from the date of petition till realisation of amount. Award to be prepared accordingly.

(T. V. NALAWADE, J.)

Dated:18/01/2016.
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