

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 1078 OF 2013
WITH
CIVIL APPLICATION NO. 1409 OF 2012**

The New India Assurance Co. Ltd. ... Appellant

vs.

Miss. Sumeeta Chandrashekhar
Mudaliyar & ors. ... Respondents

Mr. S. M. Dange, Advocate for the appellant.
Ms. T. J. Kapre i/by J. S. Kapre, Advocate for respondent no.1.
Mr. K. H. Kanojia, Advocate for respondent no.2.

Coram : Smt. R. P. SondurBaldota, J.

Date : 28th March, 2016.

P.C.

1. This first appeal by the Insurance Company challenges the judgment and award dated 26th September, 2011 passed by the Motor Accident Claims Tribunal, Pune only on the ground that the compensation awarded by the Tribunal is excessive. Respondent no.1, the original applicant was a young student aged 18 years on the date of the accident i.e. on 14th April, 2008. She was proceeding on a motorcycle as a pillion rider, when the offending vehicle the truck came from behind in a high speed and gave dash to the motorcycle. Respondent no.1 fell down and her right foot was crushed under the front left wheel of the offending truck. As a result her right foot had to be amputated. She suffered 60% of the

permanent disability and has to implant a prosthesis to the right leg. Respondent no.1 claimed to be a bright student having secured good marks in her SSC and HSC examination and was preparing for the CET examination. On account of the accident she had to be contented for taking admission for B.Sc. degree course.

2. It was the evidence of respondent no.1 before the Tribunal that she has been implanted a superior prosthesis / artificial limb costing of Rs.1,20,000/-, which has a guarantee of three years. Considering the total cost of the prosthesis, its life and the age of respondent no.1, the Tribunal awarded a sum of Rs.10,00,000/- to her towards prosthesis to be purchased in future. Mr. Dange, the learned advocate for the appellant submits that the Tribunal was not correct in accepting the cost of the prosthesis at Rs.1,20,000/- for which according to him there was no sufficient evidence. Respondent no.1 had relied upon evidence of Mr. Vijay Gore on the need of superior prosthesis and the letter at Exh.35 for the total costs of prosthesis. Considering this evidence, it cannot be said that the Tribunal was not correct in accepting either the need of superior prosthesis or the cost of the prosthesis. In fact, the Tribunal could have awarded a higher amount towards prosthesis to be purchased in future considering the young age of respondent no.1.

3. The second objection of the appellant is towards award of compensation of Rs.3,00,000/- each towards loss of comfort, pain and suffering and effect on matrimonial prospect. Mr. Dange submits that the compensation awarded is excessive and that the standard compensation shall awarded of Rs.1,00,000/- for each category. There cannot be a straight jacket standard formula for awarding compensation under these heads. The quantum of compensation would differ in accordance with the circumstances of each applicant, like age, status in life, the capacity to earn, capacity affected by the disability suffered in the accident etc. Considering the age of respondent no.1 and that she was a intelligent student looking forward to appearing for CET for the purpose of her future, in my opinion, the compensation of Rs.3,00,000/- awarded for each of the three heads is extremely fair and reasonable. Thus, I am of the opinion that there is no infirmity in the impugned award. Hence, the first appeal is dismissed. The amount of Rs.25,000/- deposited by the appellant in this Court be transferred to the Motor Accident Claims Tribunal, Pune.

4. In view of the dismissal of the appeal, Civil Application No.1409 of 2012 does not survive. The same is accordingly disposed off.

[Smt. R. P. SondurBaldota, J.]