

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

FIRST APPEAL NO. 141 OF 2013

Shri. Amar Arjun Pokhare

... Appellant

vs.

Shri. Shrinivas Bhanudas Bhosale and anr.

... Respondents

Mr. Vilas B. Tapkir, Advocate for the appellant.

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

Date : 28th March, 2016.

P.C.

This appeal is preferred for enhancement of the compensation awarded to the appellant, who had sustained injury in a motor vehicle accident. The Motor Accident Claims Tribunal, Pune has awarded amount of Rs.55,500/- with interest at the rate of 9% per annum while holding that the appellant had contributed to the negligence by not taking proper caution while driving his vehicle, which is an auto-rickshaw. The spot panchnama confirms the finding of the Tribunal as the auto-rickshaw was found at the center of the road with the width of thirty feet. The second finding of the Tribunal is that the disability certificate produced by the

appellant indicating 25% of permanent disability due to partial impairment of right lower limb, is not supported by the evidence of the medical expert examined by the appellant. As per the evidence of the appellant's witness the disability is reduced to 12%. Since this fact is proved by the appellant's own witness, there can be no infirmity with the finding. The Tribunal has noted that there is no evidence produced by the appellant that his earning capacity has been affected on account of the partial disability. There is no dispute that the appellant has not produced any evidence on this factual aspect. In the circumstances, there is no infirmity, whatsoever, in the impugned award. Hence, the first appeal is dismissed.

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