

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

FIRST APPEAL NO. 1518 OF 2013

Jaywant Ramchandra Mhetre

... Appellant
(Ori.Claimant)

vs.

Shivappa Basappa Madigan and anr.

... Respondents
(Ori.Defendants)

Mr. S. A. Rajeshirke, Advocate for the appellant.

Mr. C. M. Lokesh h/f Mr. G. S. Hegde, Advocate for the respondents.

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

Date : 8th March, 2016.

P. C. :

1. This appeal preferred by the original claimant in a Motor Accident Claim Petition is for enhancement of the compensation awarded to him. The impugned order dated 31st March, 2006 awards compensation of Rs.20,000/- with interest at the rate of 7.5% p.a.

2. The appellant had sustained injuries to his right knee, left leg and back in a motor vehicle accident. He was admitted to hospital on 31st May, 2005 and discharged on 2nd June, 2005. In the claim petition the appellant contended that he had sustained

permanent disability and produced certificate dated 2nd September, 2005, which certifies that he had sustained fracture distal end of right radius and ulna and was treated with elbow cast. The certificate states that the petitioner had temporary physical disability of 20%. He was advised various physiotherapy and routine follow up. The appellant produced second disability certificate dated 1st December, 2005, which merely certifies that his total disability is of 12%. The certificate does not specify that the disability is permanent. The appellant had examined the doctor, who had signed the certificate. The doctor, however, in his cross-examination admitted that he had not personally checked the disability of the appellant and had only countersigned the two certificates. In the event of this evidence, the Tribunal held that the appellant had failed to establish that he had sustained permanent disability on account of injury sustained in the accident. The Tribunal also held that the petitioner had failed to establish his monthly income. Therefore it awarded compensation to him on the basis of notional income of Rs.2,000/-. There is absolutely no infirmity in the view taken by the Tribunal. Therefore, the appeal which has been pending since last ten years, is dismissed.

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