

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

FIRST APPEAL NO. 734 OF 2016

MAHESH GULABRAO LANDGE
VERSUS
CHANGDEV SAMBHAJI MARATHE AND ANOTHER

...
Advocate for Appellants : Mr. Manoj D. Shinde.
Advocate for Respondent No.2 : Mr. S. G. Chapalgaonkar.
...

CORAM : **V. K. JADHAV, J.**
DATE : 23rd January, 2017.

ORDER:

. Being aggrieved by the judgment and award dated 20th November, 2015 passed by the Chairman, Motor Accident Claims Tribunal, Ahmednagar, in Motor Accident Claims Petition No.595 of 2010, the original Claimant has preferred this appeal to the extent of quantum.

2 The Appellant original Claimant met with a vehicular accident and sustained the injuries. The said injuries resulted into permanent disablement to the extent of 25% as certified by witness Dr.Gade. Dissatisfied with the award passed by the Tribunal to the extent of quantum under the various heads, the original Claimant has approached to this Court.

3 The learned counsel for Appellant / original Claimant submits that the Tribunal has not considered the medical expenses incurred by the Appellant / Claimant at Surya Hospital, Ahmednagar. Immediately after the accident, the Appellant / Claimant was shifted to said Surya Hospital where he was admitted for a period of four days and thereafter, shifted to Ruby Hospital, Pune. The learned counsel submits that the Tribunal has considered the medical expenses incurred by the Appellant / Claimant at Ruby Hospital, Pune, however, ignored the medical expenses incurred by the Appellant / Claimant at Surya Hospital, Ahmednagar. The learned counsel submits that the Appellant / Claimant had incurred the medical expenses to the tune of Rs.91,720/- at Surya Hospital, Ahmednagar and the original receipts issued by the said Surya Hospital is placed on record alongwith the list Exhibit – 15 (2). The Tribunal ought to have considered the said medical expenses incurred by the Appellant / original Claimant. The learned counsel submits that though the Appellant / Claimant had taken treatment in various hospitals, such as Surya Hospital, Ahmednagar, Ruby Hospital, Pune and Ganpati Eye Hospital, Jalna, the Tribunal has awarded less amount for pains and sufferings. The Appellant / Claimant came to be operated in Ruby Hospital, Pune where he was admitted for a period of one month. The Appellant /

Claimant as deposed by him before the Tribunal, remained under follow up treatment for near about three years after the accident and he had to take treatment for deformity in his eyes resulted out of the injuries sustained in the said accident, at Ganpati Eye Hospital, Jalna. The Tribunal has, however, awarded a very meager amount under the head of pains and sufferings and conveyance charges. The learned counsel submits that the Tribunal has not awarded any amount for loss of amenities in future life. The learned counsel submits that the Appellant / original Claimant had sustained deformity in his eyes and he had to incur heavy expenses in the hospital at Jalna for treatment of eyes and for that purpose, the matter may be remanded to the Tribunal to prove the said expenses incurred by the Claimant so also the deformity in the eyes.

4 The learned counsel for the Respondent / Insurer submits that the Tribunal has awarded just and reasonable compensation to the Claimant. The learned counsel submits that the Claimant has failed to prove the documents submitted along with the list Exhibit – 15 (2). The Appellant / Claimant has not examined any person from the said Surya Hospital, Ahmednagar to prove the documents produced before the Tribunal as per list Exhibit – 15 (2) and therefore, the Tribunal has rightly ignored those documents while awarding the

compensation under the heads of hospitalization and medical expenses. The learned counsel submits that the Tribunal has awarded just and reasonable compensation under pains and sufferings, conveyance charges etc. The learned counsel submits that remand of the matter is not at all warranted since the Appellant / Claimant has not produced on record any document issued by the Ganpati Eye Hospital, Jalna to indicate that the Appellant / Claimant sustained certain deformity in his eyes on account of the injuries sustained by him in the accident.

5 On careful perusal of record and proceedings more particularly the documents produced alongwith list Exhibit – 15 (2), it appears that the Appellant / Claimant had incurred the medical expenses to the tune of Rs.91,720/-. Even the original receipts issued by said Surya Hospital, Ahmednagar signed on the stamp about the receipt of the amount as shown in the bill. The Respondent / Insurer also not disputed that said Surya Hospital, Ahmednagar is a reputed hospital. It is not disputed that immediately after the accident, the Appellant / original Claimant was shifted to Surya Hospital, Ahmednagar and he remained under treatment in the said hospital for initially four days, and thereafter, he was shifted to Ruby Hospital, Pune for further treatment. In the backdrop of these facts, I am

inclined to consider the medical expenses incurred by the Claimant to the tune of Rs.91,720/- at Surya Hospital, Ahmednagar. The Claimant is entitled for the same.

6 It further appears that after the accident, the Appellant / Claimant had taken treatment at various hospitals and he was also required to undergo follow up treatment for a long period. Further he was also operated in Ruby Hospital, Pune twice. He was also treated for head injury in the said hospital and also suffered on account of remote consequences of the said head injury sustained by him in the said accident. In view of this, in my opinion, the Tribunal has awarded less amount under the head of pains and sufferings. The Claimant is entitled for an amount of Rs.1,00,000/- for pains and sufferings.

7 It also appears from the evidence of the Appellant / Claimant that he had to undergo follow up treatment for near about three years and every time he had to pay for conveyance and even the charges of follow up treatment. The Tribunal has awarded only Rs.15,000/- for conveyance. The Appellant / Claimant is entitled for Rs.35,000/- instead of Rs.15,000/- as awarded by the Tribunal. The Claimant is also entitled for an amount of Rs.25,000/- for loss of amenities in future as the Claimant had completed his BCA and

considering his job in future, he is entitled for the aforesaid amount towards loss of amenities in the future. The Tribunal has awarded a just and reasonable compensation under other heads. No interference is required. In view of the above, the compensation under the various heads can be broadly categorized as under:

Hospitalization and medical expenses	: Rs.5,59,480/-
Pains and sufferings	: Rs.1,00,000/-
Special diet and attendant charges	: Rs.25,000/-
Conveyance charges	: Rs.35,000/-
Loss of an academic year	: Rs.20,000/-
Compensation on account of permanent disability:	Rs.50,000/-
Loss of amenities	: Rs.25,000/-
Total	= : Rs.8,14,480/-

8 The Claimant is entitled for the total compensation of Rs.8,14,480/-. Hence, I proceed to pass the following order:

ORDER

- I. The appeal is hereby partly allowed with proportionate costs.
- II. The judgment and award passed by the Chairman, Motor Accident Claims Tribunal, Ahmednagar, dated

20th November, 2015 in Motor Accident Claims
Petition No.595 of 2010, is modified in the following
manner:

“Opponent Nos.1 and 2 jointly and severally
do pay Rs.8,14,480/- (Rupees Eight Lacs
Fourteen Thousand Four-Hundred and
Eighty only) inclusive of no fault liability
alongwith future interest at the rate of 8%
per annum from the date of petition to the
date of realization of the said amount.”

- III. Rest of the judgment and award stands confirmed.
- IV. Award be prepared as per the above modification.
- V. Needless to say that if any amount is paid as per the
award passed by the Tribunal, the same shall be
deducted from the award as per the modification.
- VI. The appeal is accordingly disposed of.

[V. K. JADHAV, J.]