

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

**FIRST APPEAL (ST.) NO. 27633 OF 2016
WITH
CIVIL APPLICATION NO.4367 OF 2016
IN
FIRST APPEAL (ST.)NO. 27633 OF 2016**

Reliance Gen. Ins. Co. Ltd.

...Applicant/
Appellant

Versus

Shri Mahendra Kumar
Narsingh Shah @ Cheda & Anr.

...Respondents

**WITH
CIVIL APPLICATION NO.222 OF 2017
IN
FIRST APPEAL (ST.)NO. 27633 OF 2016**

Shri.Mahendra Kumar
Narsingh Shah @ Cheda & Anr.

...Applicants

IN THE MATTER BETWEEN

Reliance Gen. Ins. Co. Ltd.

...Appellant

Versus

Shri Mahendra Kumar
Narsingh Shah & Cheda & Anr.

...Respondents

.....

Ms.Shalini Shankar for the Appellant.
Mr.Devendranath S.Joshi for Respondent No.1.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: SEPTEMBER 07, 2017**

P.C. :

1. This appeal is directed against the judgment and award dated 07.05.2016 passed by the learned Member, Motor Accident Claims Tribunal, Mumbai, thereby partly allowing M.A.C.P. No. 1516 of 2010.
2. It was an injury claim filed by the respondent/original claimant against the owner of rickshaw driver and the appellant/Insurance Company. The respondent/original claimant is 63 years old. He was sitting in rickshaw no.MH-03-D-3362. The driver of auto rickshaw was negligent in driving and auto rickshaw turned turtle near Sheetal Milk Centre, Mulund, due to which the respondent/original claimant sustained multiple injuries. The owner of rickshaw did not appear, but the Insurance Company has filed Written Statement and denied the claim.
3. The challenge was given to the injuries sustained by the respondent/original claimant so also the medical expenditure on the same. The respondent/ original claimant examined himself and produced the medical bills. In support of his evidence, one Dr. Mihir Ranaware examined the claimant on the point of injuries and disability. Dr. Mihir Ranaware has assessed that the claimant is permanent partial disable to the extent of 45%. The learned Member, M.A.C.T., Mumbai, awarded the compensation of Rs 20,08,494/- to the original claimant alongwith interest @ 9% p.a. from the date of application, till realization. Being aggrieved by the judgment and order dated 07.05.2016, the appellant/ Insurance Company filed this appeal.

4. Learned counsel for the appellant/Insurance Company has submitted that the challenge is given to the judgment mainly on the ground of quantum and the proof of 45% permanent partial disability. He has further submitted that the learned Member, M.A.C.T, Mumbai ought not to have accepted the evidence of loss of earning capacity of the claimant.

5. Per contra, learned counsel for the respondent/original claimants has relied on the evidence of the claimant and the evidence of Dr. Mihir Rananware on the point of injuries and disability. He submits that the claimant has produced all original bills of the medical expenditure and the medical papers of three hospitals where the claimant was treated. He further submits that the income tax return of three consecutive years i.e. 2009, 2010 and 2011 were tendered and on the basis of the said income tax return, it was rightly accepted that the annual income of the claimant is Rs. 2,48,219/-. He further submits that the original medical bills were produced by the claimant, which shows the expenses of Rs. 9,34,999/-. He supports the judgment and award passed by the learned Member of the tribunal.

6. Heard submissions. Perused the judgment and also the medical papers. It appears from the record that the claimant has sustained multiple injuries including fracture of mandible, fracture of left zygomatic arch, fracture of lat, wall and fracture of LT orbit, frontal fracture with contusion of cervical cord. Dr. Mihir Rananware examined the claimant on the point of injuries and opined that he had sustained 45% permanent partial disability due to various serious injuries. The claimant was a businessman, however, he could not carry out the

business due to sickness and disability. The order passed by the learned Member, M.A.C.T., Mumbai is a well-reasoned order and the amount of compensation granted to the claimant is an adequate amount. Hence, appeal is dismissed.

7. In view of the dismissal of the First Appeal, nothing survives in the Civil Applications and the same are disposed of as such.

(MRIDULA BHATKAR, J.)