

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**FIRST APPEAL NO.955 OF 2012
WITH
CA/6956/2012 IN FA/955/2012**

THE DIVISIONAL OFFICER,
M.S.R.T.C.AHMEDNAGAR DIVISION,
AHMEDNAGAR = APPELLANT

VERSUS

PANDURANG MARUTI CITALKAR
Age:41 Yrs., occu. Agril.
R/o Dhoki, Tq.Parner,
Dist. Ahmednagar. = RESPONDENT

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Advocate for Appellant : Mr. Goyanka M.K.
Mr.Garud N.C., Adv. For Respondent/sole

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**CORAM : P.R. BORA, J.
DATED : 24th SEPTEMBER, 2018.**

ORAL JUDGMENT:-

1. Heard Shri Goyanka, learned counsel for appellant and Shri Garud, learned counsel for respondent.

2. The appellant-corporation has challenged the order passed by Motor Accident Claims Tribunal at Ahmednagar (for short, the Tribunal) in MACP No.444/2009 decided on 13th February, 2012. The aforesaid claim petition was filed by the present respondent, who is herein after referred to as the claimant, seeking compensation on account of the

injuries caused to him in a vehicular accident happened on 8th June, 2009. It was the case of the claimant, that he was dashed by an ST bus when he was proceeding on his motor-cycle. It was alleged by the claimant that the accident, in question, had happened because of the negligence on the part of the ST bus driver. It was also the contention of the claimant that in the accident so happened, he was severely injured and was required to undergo a long medical treatment and was subjected to incur huge medical expenses. It was also his contention that he suffered a permanent disablement to a greater extent and as such, he had claimed the compensation of Rs.9,00,000/- from the appellant-corporation.

3. The learned Tribunal, after having assessed the evidence brought before it, held the claimant entitled for the total compensation of Rs. 7,50,000/- inclusive of NFL compensation. Aggrieved by, the appellant-corporation has filed the present appeal.

4. Shri Goyanka, learned counsel appearing for the appellant-corporation, assailed the impugned judgment on various grounds. The learned

counsel submitted that without there being cogent evidence, the Tribunal has passed the Award of exorbitant amount. The learned counsel submitted that neither the medical expenses were sufficiently proved by the claimant nor the disablement allegedly caused to him was proved by him. The learned counsel further submitted that the plea of contributory negligence was also raised by the appellant-corporation, however, the same has been turned down by the Tribunal for wrong reasons. In the circumstances, according to the learned counsel, the Award passed by the Tribunal needs to be modified and the amount of compensation, as has been awarded by the Tribunal, needs to be adequately reduced.

5. Shri Garud, learned counsel appearing for the claimant has supported the impugned Judgment and Award. The learned counsel submitted that the Tribunal has passed a well-reasoned order and no interference is required in the Award so passed.

6. I have given due consideration to the submissions made by the learned counsel appearing for the respective parties. I have perused the impugned Judgment and Award as well as the

evidence on record. On perusal of the impugned judgment and the evidence on record, apparently, it does not appear to me that the compensation, as has been awarded by the Tribunal, is exorbitant or is, in any way, unreasonable.

7. The claimant had filed on record the hospital and medicine bills amounting to Rs. 2,61,286/- at Exh.21. The Tribunal has observed that the ST corporation had not raised any objection for exhibiting the said documents. The tribunal has, therefore, awarded the entire said amount to the claimant towards the medical expenses. In view of the fact that the respondent-claimant during the course of the trial of the petition, did not object for exhibiting the medicine and hospital bills, the objection now raised that the Tribunal has awarded unreasonable amount towards the medical expenses, cannot be accepted and deserves to be turned down.

8. The Tribunal has awarded the compensation amounting to Rs.3,78,000/- towards loss of future income. While determining the said amount, the Tribunal has held the monthly income of the claimant to the tune of Rs.2,000/- and has

accordingly assessed the future loss of income by using the appropriate multiplier for the said purpose. The amount of compensation so awarded also appears to be just and does not require any interference. The compensation awarded under the other heads is reasonably awarded by the tribunal.

9. Now remains only issue raised by the ST corporation i.e. of contributory negligence alleged by the ST corporation against the claimant. The Tribunal has elaborately discussed the issue of negligence in occurrence of the alleged accident in paras 7 and 8 of the judgment. As is revealing from the material on record, the bus entered on the wrong side and gave a dash to the motor-cycle of the claimant. The police has charge sheeted only the driver of the bus in relation to the alleged accident. Though it was sought to be contended that it was head on collision and as such some negligence has to be attributed on part of the claimant. The evidence on record shows that the said suggestion of head on collision was flatly denied by the claimant and the spot of occurrence also does not support the said contention raised by

the ST corporation.

10. After having considered the entire evidence on record, the Tribunal has recorded a finding that the alleged accident had happened because of the sole negligence of the ST driver. I do not see any reason to cause any interference in the finding so recorded.

11. After having considered the entire evidence on record and the submissions made by the learned counsel appearing for the appellant-corporation, it does not appear to me that any case is made out by the appellant-corporation for causing interference in the impugned Judgment and Award. The appeal being devoid of any merits deserves to be dismissed and is accordingly dismissed, however, without any order as to costs. Pending civil application stands disposed of.

(P.R. BORA)
JUDGE

bdv