

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

**CIVIL APPLICATION NO. 4845 OF 2011
WITH
FIRST APPEAL NO. 2237 OF 2005**

Chandrakant Manmath Hukire ... Applicant
V/s.
The Chairman,
Maharashtra State Board Transport Corpn. & Ors. ... Respondents

- Mr.I.M. Khairdi for the Applicant.
- Mr.C.M. Lokesh i/b. Mr.G.S. Hegde for Respondent No.1.
- Mr.Devendranath S. Joshi for Respondent No.5.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 30th AUGUST, 2018.

P.C. :

- 1] Heard learned counsel for both the parties.
- 2] This is an application filed by the original claimant seeking amendment in the 'Claim Petition'.
- 3] It is submitted that the accident giving rise to this 'Claim Petition' occurred on 28/06/1994. As per the order passed by the Tribunal on 17/11/2004, the Applicant has been awarded

compensation of Rs.56,000/-. It is submitted that the subsequent thereto, there were complications in the injury of the Applicant and as a result the left leg of the Applicant-claimant has to be amputated and hence, he has suffered 60% of disability. Therefore, he is entitled to the future loss of income to the tune of Rs.6,00,000/- and to that extent, it is submitted that the amendment is required to be carried out in the 'Claim Petition'.

4] This application is strongly opposed by learned counsel for both the Respondents on the count that : in the first place, the nexus is required to be established to show that the amputation was on account of the injury caused on account of the incident and secondly, it would be a never ending process, if such application for amendment is allowed. Thirdly, it is submitted that the Tribunal has considered the injury and awarded the compensation towards the future loss of income also and therefore, there is no necessity of carrying out the amendment in the Claim Petition.

5] In my considered opinion, if according to the Applicant, the amputation of the leg was on account of the injury caused in the accident, then he is required to be given an opportunity to prove the said fact as if it is proved to be so, then definitely he would be entitled

to get more amount of compensation; otherwise also he has also filed this appeal seeking enhancement of compensation and therefore, in order to decide the dispute between the parties finally and effectively, the subsequent injury of leg is required to be brought on record. It would be in the interest of justice.

6] Therefore, the Civil Application is allowed.

7] The Applicant-claimant to carryout necessary amendment as per the draft amendment within a period of two weeks.

8] If the amendment is carried out in stipulated time, place the Appeal on board on 3rd October, 2018.

[DR.SHALINI PHANSALKAR-JOSHI, J.]