

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

FIRST APPEAL NO.752 OF 2006

Bhimrao Pralhad Patil
Age 35 Occu. Service
R/o Vardi, Tal. Chopda,
Dist. Jalgaon.

...Appellant

Versus

1. Akhtarali Tayabai
Age Major, Vehicle Owner
R/o Bhawe Lane, Dharangaon,
Dist. Jalgaon.
2. National Insurance Company,
Behind Kerkal Market, Saibaba
Market, Jalgaon.
3. Divisional Controller,
Maharashtra State Transport
Corporation, Jalgaon.

...Respondents

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Mr. N.R. Thorat h/f Mr. A.K. Tiwari, Advocate for Appellant.
Mr. R.C. Bora h/f Mr. P.P. Bafna, Advocate for Respondent
No.2.
Mr. M.K. Goyanka, Advocate for Respondent No.3.
Mr. R.M. Deshmukh, Advocate for Respondent No.1.

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**CORAM : P.R. BORA, J.
DATED : 05th March, 2019.**

ORAL JUDGMENT:-

1. The claimant in Motor Accident Claim Petition
No.70 of 2003 decided by the Motor Accident Tribunal, at
Amalner, on 27.03.2006 has preferred the present appeal

seeking enhancement in the amount of compensation awarded by the said Tribunal. The appellant, who is hereinafter referred to as the claimant was proceeding in a S.T. Bus on 25.06.2003. The said S.T. Bus was dashed by a truck bearing Registration No.MH-B-8429 and in the accident so happened, the claimant received multiple injuries. He, therefore, filed the petition claiming compensation on account of the injuries caused to him and the disability incurred by him because of the said injuries, from the owner and insurer of the offending truck as well as the S.T. Corporation. He had claimed the compensation of Rs.1,50,000/-. According to his contention in the petition, he has incurred 45% permanent disability because of the injuries caused to him in the alleged accident. In order to substantiate his claim, the claimant himself deposed before the Tribunal and placed on record the relevant documents i.e. the bill and receipts of the hospital and the medical bills as well as the disability certificate. He also placed on record the relevant police papers pertaining to the alleged accident. The learned Tribunal, however, has awarded the compensation only of Rs.25,000/-. Aggrieved by the claimant has preferred the present appeal.

2. Shri. Thorat, the learned counsel appearing for

the claimant submitted that on technical grounds, the tribunal has rejected the genuine claim of the claimant on account of the medical expenses incurred by him on his treatment and the loss, which he has suffered because of the injuries caused to him in the alleged accident. The learned counsel invited my attention to the documents filed on record by the claimant. The learned counsel in the circumstances, prayed for allowing the appeal and consequently to allow the claim petition in toto.

3. Mr. Bora, the learned counsel appearing for respondent No.2, Shri. Goyanka, the learned counsel appearing for respondent No.3 and Shri. Deshmukh, the learned counsel appearing for respondent No.1 have supported the impugned judgment and order. According to the learned counsel, the Tribunal has passed a well reasoned order and no interference is required in the judgment and award so passed.

4. After having considered the submissions advanced by the learned counsel appearing for the respective parties and on perusal of the impugned judgment, apparently it is revealed that the amount of compensation as has been awarded by the Tribunal is wholly

unjust and inadequate. The Tribunal has rejected the claim of the claimant towards medical expenses and on other counts by taking a hyper technical view. It is not in dispute that the disability certificate is on record. In the circumstances, the said could not have been outrightly discarded by the Tribunal only for the reason that the claimant did not examine the person who had issued the said certificate. For the similar reason, the Tribunal has not awarded a single pie to the claimant towards medical expenses. From the material on record it cannot be disputed that, the claimant had undergone a long treatment for injuries caused to him in the alleged accident. The claimant had also placed on record the stamp receipt issued by the hospital, where he took the treatment. Number of medical bills are placed on record by the claimant. All such evidence has been rejected by the Tribunal only on the ground that the claimant did not examine the concerned Medical Officer or the Doctor, who has issued the said certificate. It appears that the learned Tribunal lost sight of the fact that the strict rules of the evidence Act are not applicable while deciding the application under the Motor Vehicle Act, which is a social beneficiary legislation.

5. From the evidence on record, it has been amply

proved that in the accident so happened, the claimant had received multiple injuries for which he was required to undergo surgery as well as long treatment. Though in absence of any further cogent evidence, the contention of the claimant that he incurred 45% permanent disability cannot be accepted, in so far as the medical expenses incurred by the claimant are concerned, they were liable to be awarded by the Tribunal. It further cannot be disputed that because of the injuries caused to him in the alleged accident, the claimant had certainly lost his working capacity to some extent. It further cannot be disputed that because of the disability incurred by the claimant because of the injuries caused to him in the alleged accident, he may not be able to enjoy the amenities of life in future as a normal person. Considering these aspects, I have no hesitation in holding that amount awarded by the Tribunal is unjust and inadequate. It needs to be adequately enhanced.

6. As I noted here-in-above, the claimant has placed on record the hospital bills and the medical bills. I see no reason to discard the said evidence. The receipt which is at Exhibit 5/7 reveals that the amount of Rs.51,350/- was paid by the claimant to the Ashwini Accident Hospital and Trauma Center. Along with the said receipt, the medical bills are

placed on record. It was not expected that the medical bills are to be proved by the claimant by examining the concerned shop owner from whom the medicines were purchased by him. All these bills are of the same period wherein claimant was under treatment. The said amount is also liable to be awarded to the claimant. In addition to the aforesaid amount, it appears to me that the claimant also needs to be compensated by awarding a reasonable amount of compensation towards loss of amenities in the life.

7. Considering the evidence as aforesaid, it appears to me that the claimant has certainly made out a case for enhancement in the amount of compensation to the extent of Rs.1,00,000/-. I, therefore, hold the claimant entitled for the total compensation of Rs.1,25,000/-. In the facts and circumstances of the case, it appears to me that this would be the just and fair amount of compensation payable to the appellant-claimant. In the result, the following order is passed:

ORDER

- i) The appellant is held entitled for the enhanced compensation of Rs.1,00,000/-.
- ii) The respondents shall jointly and severally pay the aforesaid amount of compensation to the appellant-

(7)

claimant together with interest thereon @ 7.5 % p.a. from the date of application till its realization.

iii) The appeal thus stands partly allowed in the aforesaid terms.

(P.R. BORA, J.)

Mujaheed//