

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO.13895 OF 2019 IN
FIRST APPEAL NO.1093/2019

KHALIL SARDAR SHAIKH & ORS
VERSUS
CHAVAN SURESH NAMDEORAO AND ORS
VERSUS

...
Adv. Taher Ali Quadri for Applicant.
Advocate for R.2. : Kulkarni Sudhir V.

...
CORAM : MANGESH S. PATIL, J.
DATE : 04.12.2019

PC. :-

Heard both the sides.

2] The learned advocate for the appellant insurance company of the offending vehicle who has preferred appeal strongly opposes the application. He submits that the applicant himself was wholly responsible for causing the accident and even FIR has been registered against him. The Tribunal has not considered these aspects and has apportioned the negligence between him and the driver of the offending vehicle as 40% and 60%, when it should have been 100% in respect of the applicant.

3] I have carefully gone through the papers and the impugned award. It is a matter of head on collision between the two equally huge vehicles. The Tribunal for the reasons recorded has held it to be a case of contributory negligence holding applicant to be responsible to the extent of 40%.

4] It is an injury claim the occupation of the applicant is as a driver and his

leg has been amputated in the accident.

5] Considering all these facts, he is allowed to withdraw the entire amount of compensation deposited in this Court by the appellant insurance company by furnishing undertaking in usual terms and conditions.

[MANGESH S. PATIL, J.]

umg/