IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 284 OF 2013

Tukaram s/o Shriram Hanmane
Age: 47 years, Occupation: Labour,
R/o Wara Jahgir, Tq & District: Washim
At present R/at Goregaon,
Tq & District: Hingoli ... **Appellant**
(Orig. Claimant)

Versus

1. Vishwanath s/o Bhagaji Varekar
Age: 35 years, Occu: Business,
R/o Wara Jahgir, Tq & District: Washim

2. The Oriental Insurance Company
Ltd., through its branch Manager,
Daulat Building, Parbhani,
Tq & District: Parbhani ... **Respondents**
(Orig. Respondents)

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Mr. P. S. Agrawal, Advocate for appellant
Mr. P. C. Mayure, Advocate for respondent No.1
Mr. A. S. Deshpande, Advocate for respondent No.2

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CORAM : R. G. AVACHAT, J.
DATED : 22nd NOVEMBER, 2021

PER COURT :-

. This is the original claimant's appeal against judgment and award dated 29,.09.2007 passed by the Member, Motor Accident

Claims Tribunal, Hingoli, in Motor Accident Claim Patition No.229 of 2001, dismissing his claim for compensation on account of injuries and permanent disability suffered in the accident involving motor vehicle, namely, Auto-rickshaw bearing registration number MH-30-E-8112.

2. Heard. Learned Advocate for the appellant – claimant would submit that the appellant – claimant was one of the passengers in the Auto-rickshaw that met with self accident on 23.01.1999. The police charged the Auto-rickshaw driver for being responsible to the accident. The appellant – claimant and other in the Auto-rickshaw suffered multiple injuries. His left eye suffered severe injury, resulting into complete loss of vision. According to the learned Advocate, the Tribunal negatived the claim on the ground the insurance cover note was illegible. It was not proved that auto-rickshaw was insured with the respondent No.2 – Insurance Company. He, therefore, urged for grant of compensation.

3. Learned Advocate for the respondent – Insurance Company would on the other hand supports the impugned judgment and order.

4. The police papers on record indicate the Auto-rickshaw to have had met with the accident. The appellant-claimant was one of the passengers therein when it met with the accident. A certified copy of the judgment and award passed in M.A.C.P. No.221 of 2001 is placed on record. The same indicates the Tribunal to have awarded compensation of Rs.30,000/- to co-passenger in the Auto-rickshaw, who suffered injuries in the very accident. The said award has been passed against the owner of the Auto-rickshaw and its Insurance Company, respondent No.2 herein. Admittedly, no appeal has been filed against the judgment and award passed in M.A.C.P. No. 221 of 2001. As such, the respondent – Insurance Company cannot be heard to say to have had not granted insurance cover to the Auto-rickshaw involved in the accident.

5. Perused the evidence in the case. The appellant – claimant admitted to have suffered blunt trauma. No evidence in the nature of injuries suffered was produced in evidence. There is also no documentary evidence to prove the appellant to have had incurred medical expenditure. As such, it is a case of lack of evidence. The fact, however, remains that the appellant – claimant was the victim of the accident and he suffered invisible injuries. The

accident dates back to the year 1999. Over 22 years have passed thereafter. Without assessing compensation under various heads, this Court is inclined to grant the appellant a consolidated sum of Rs.10,000/- as compensation without any interest pendente lite.

6. In the result, the appeal is allowed in terms of following order.

ORDER

(i) The appeal is allowed.

(ii) The order dated 29.09.2009 dismissing the M.A.C.P. No.229 of 2001, is hereby set aside. The claim petition is allowed.

(iii) Both the respondents shall pay the appellant, jointly and severally, a sum of Rs.10,000/- as compensation within a period of three months. Failure to pay the amount within the time specified, it shall carry interest @ 6% p.a. from the date of this order to the date of payment.

[R. G. AVACHAT, J.]

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