

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 101 OF 2006

1. Syed Shabir Ahmed Abdul Karim
Age : Adult, Occu: Business,
R/o Near Sudesh Theatre,
Kopargaon, Dist. Ahmednagar
2. Mansoorali Abdul Karim Syed,
Age: Adult, Occu: Service (Driver),
R/o 291, Gajanannagar at Post
Kopargaon, Dist. Ahmednagar ...Appellants

Versus

Yusuf Mansoom Shah,
Age: 35 Years, Occu: Business,
And Agriculture, R/o: Subhedha Vasti,
Ward No. 2, Shirampur,
Dist. Ahmednagar ...Respondent

Ms Fatema Kazi, Advocate holding for Mr S.S. Kazi, Advocate
for the Appellants
Mr V.S. Bedre, Advocate for Respondent/Sole

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 29.11.2021

ORAL JUDGMENT :

1. This appeal is directed against the impugned Judgment and award passed in MACP No. 85/2000 (Old No. 916/1991) by the Motor Accident Claims Tribunal (MACT), Shirampur, Dist. Ahmednagar.
2. Heard Ms Fatema Kazi, learned counsel holding for Mr S.S. Kazi, learned counsel for the appellants and Mr V.S.Bedre, learned counsel for the respondent.

3. Perused the impugned Judgment and award passed by the Member, MACT, Shrirampur and oral and documentary evidence recorded before the Tribunal.

4. Ms Fatema Kazi, learned counsel for the appellants vehemently submitted that the learned Tribunal has awarded immoderate compensation. The Tribunal has not considered various aspects and evidence on record in a proper way and arrived at incorrect conclusion. She invited my attention to the impugned Judgment para No. 7 and pointed out that though the claimant has claimed an amount of Rs.60,000/- towards reimbursement of medical expenses, she could only produce medical bills to the tune of Rs. 2,563/-. Even then the Tribunal has awarded an amount of Rs.20,000/- under the head of medical expenses which is very much on higher side. She further invited my attention to para Nos. 8 and 9 of impugned Judgment and submitted that the Tribunal has awarded exorbitant compensation under the head of loss of income. She submitted that the findings recorded by the Tribunal are erroneous. The Tribunal has not at all considered the evidence on record in a proper perspective and awarded exorbitant amount of compensation to the respondent/original claimant. The appeal needs to be allowed.

5. Mr Bedre, learned counsel for the respondent/original claimant supported to the impugned Judgment and award passed by the Tribunal. He submitted that the findings recorded by the learned Tribunal are well-reasoned on the basis of evidence on record. There is no need to disturb

the findings when those findings are supported by evidence. He submitted that even though respondent/original claimant has not filed cross-objection in the appeal for enhancement, compensation may be enhanced. The claimant is ready to deposit court fees on the enhanced compensation, if any.

6. Having regard to the argument advanced by Ms Fatema Kazi, learned counsel for the appellants and Mr Bedre, learned counsel for the respondent/original claimant, it is clear that the impugned Judgment and award passed by the Member, MACT, Shrirampur is challenged mainly on the ground of quantum of compensation.

7. The Tribunal seems to have awarded an amount of Rs. 87,000/- to the respondent/original claimant inclusive of NFL with the interest of 9 % per annum from the date of institution of claim till the realization of his claim.

8. On perusing the impugned Judgment and award, it is noticed by me that the claimant has lost his right eye. His vision is affected due to removal of right eye after operation. The claimant seems to have examined Dr. A.N. Shinde to prove his disability and according to the assessment of Dr. Shinde, the original claimant is suffering from permanent disability to the extent of 50%. The claimant was earning in the range of Rs. 200/- to Rs. 300/- per day and accordingly, the Tribunal has calculated the figure and arrived at conclusion to award Rs. 50,000/- to the applicant under the head of permanent disability which cannot be said to be excessive.

9. So far as the amount of medical treatment is concerned, the Tribunal has awarded Rs.20,000/- even though applicant could produce medical bills to the tune of Rs. 2,563/-. It is evident from the record that after the accident, he was hospitalized in St. Luke's hospital where he was admitted as indoor patient for 7-8 days. The claimant was then shifted to Pravara Hospital where he was treated as indoor patient for one month. He was shifted to Rubi Hall Clinic and provided treatment as indoor patient for 15 days.

10. By taking into consideration all these facts, the Tribunal seems to have assessed the amount of medical expenses to the tune of Rs.20,000/- which appears to be very much reasonable. I do not see any error on the part of the learned Tribunal while assessing the amount under the head of medical treatment/medical expenses even though, medical bills are not placed on record by the claimant. The claim petition is filed under the Motor Vehicles Act, 1988 wherein summary enquiry is contemplated. The strict proof is not required.

11. The Tribunal has awarded Rs.5,000/- to the claimant under the head of pains and sufferings which appears to be also reasonable. The Tribunal has also awarded Rs.3,000/- to the claimant under the head of conveyance and diet during the period of his medical treatment as indoor patient as well as outdoor patient.

12. The Tribunal has considered the factual scenario and evidence on record and accordingly, awarded compensation of Rs. 87,000/- to

the(claimant which appears to be just and reasonable. I do not see any error on the part of the learned Member, MACT, Shrirampur while awarding the quantum of compensation as well as rate of interest. The accident seems to have taken place long back in the year 1990. It is also submitted by Ms Fatema Kazi, learned counsel for the appellants that the substantial amount has been deposited by the appellants.

13. I do not see any merit in the appeal.

ORDER

- (I) The appeal stands dismissed.
- (II) The impugned Judgment and award passed in MACP No. 85/2000 (Old No. 196/1991) by the Member, MACT, Shrirampur, Dist. Ahmednagar is hereby confirmed.
- (III) The amount of compensation with interest, if any, lying in this Court towards payment of compensation be transferred to the MACT, Shrirampur for making payment to the claimant as per the Judgment and award passed by the MACT, Shrirampur, Dist. Ahmednagar.
- (IV) The appeal is accordingly disposed of.

[SHRIKANT D. KULKARNI, J.]