

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

FIRST APPEAL NO.280 OF 2009

Mansaram s/o Tanuji Mendhe,
Aged about 55 years,
Occupation-Contractor (Meson),
R/o. Panchal Layout, Hingana Road,
Nagpur.

.. Appellant

.. Versus.

1. The Manager,
National Insurance Company,
M.I.D.C. Branch, 13, Gijare Bhaven,
South Ambazari Road, Laxmi Nagar,
Nagpur.
2. Dr. Gunvant Shobhane,
Aged Major, Occupation-Profession.
3. Smt. Sarojini w/o Gunvant Shobhane,
Aged Major, Occu : Profession,

Both R/o. 179, NIT Layout, Trimurti
Nagar, Ring Road, Nagpur.

4. United India Insurance Co. Ltd.,
D.O. No.2, Shankar Nagar,
Nagpur-10.

.. Respondents

.....
None for the appellant,
Mr. B.P. Bhatt, Advocate for respondent no.1,
Ms. Anita Mategaonkar, Advocate for respondent no.4.
.....

CORAM : M.S. SONAK, J.
DATED : DECEMBER 10, 2021.

JUDGMENT

None for the appellant. Mr. Bhatt, the learned counsel appears for respondent no.1, and Ms. Anita Mategaonkar, the learned counsel appears for respondent no.4.

2. This is an appeal challenging the award dated 2.4.2008 made by the Motor Accident Claims Tribunal (Tribunal) at Nagpur in Claim Petition No.40 of 2003 awarding the appellant compensation of Rs.99,460/- instead of Rs.1,25,000/-, as claimed.

3. I have perused the impugned award as well the evidence to be found in the record and proceedings. The Tribunal, in this case, has arrived at the figure of Rs.99,460/- by reference to the following :

i) Hospital & Medical expenses	.. Rs.20,100/-
ii) Conveyance & special diet	.. Rs. 1,000/-
iii) Compensation towards permanent disablement.	.. Rs.10,000/-
iv) Loss of future income	.. Rs.63,360/-
v) Pain and suffering	.. Rs. 5,000/-

Total compensation	.. Rs.99,460/-.

4. In my judgment, the compensation awarded against the heads (i) to (iv) above is quite adequate and proper. However, the compensation towards the pain and suffering should have been Rs.15,000/- and not merely Rs.5,000/-

5. The evidence on record establishes that the appellant, as a result of the accident, suffered malunion fracture neck of femur right with minimum displacement. There is evidence that the appellant had to follow up the matter for change of dressing, consultation, etc. for a considerable period. There is evidence that the appellant suffered 20% disablement. The appellant was a mason by profession. Having regard to all these factors, the compensation of Rs.5,000/- towards the pain and suffering appears to be improper and the appellant should have been awarded Rs.15,000/- under this head.

6. Therefore, this appeal is **partly allowed** and the compensation amount is enhanced from Rs.99,460/- to Rs.1,10,000/- by rounding up. Further having regard to the march of time, direction nos. (iv) and (v) about investment and premature withdrawal are also set aside, assuming that

they continue to operate as on date.

7. The respondent nos.2 to 4, including in particular respondent no.4, shall deposit the additional compensation in this court, within eight weeks from today together with the interest that was awarded by the Tribunal. Upon deposit, the appellant will be entitled to withdraw the same.

8. The registry to facilitate such withdrawal by way of direct transfer into the appellant's account.

9. The appeal is disposed of in the aforesaid terms. There shall be no order for costs.

[M.S. Sonak, J.]

ABHIMANYU
SHANKARRAO
GULANDE

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