

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 997 OF 2006

Sonaji Vishwanath Kokade (Kothale),
Age : 28 years, Occu. : Business,
R/o. : Chouka-gaon, Tq. Aurangabad
& Dist. Aurangabad

... APPELLANT
(Ori. Claimant)

VERSUS

1. Mohd Abdul Razzak Mohd Yasin Kadri,
Age : Major, Occu. : driver,
R/o. : House No.1/16/65 Lota Karanja, Aurangabad

2. The New India Insurance Co. Ltd.,
Through its Branch Manager,
Aurangabad

... RESPONDENTS
(Ori. Opponents)

...

Mr. V.S. Bedre : Advocate for Appellant
Mr. A.P. Bhandari : Advocate for Respondent No.1
Mr. M.M. Ambhore : Advocate for Respondent No.2

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CORAM : S.G. DIGE, J.

DATE : 22nd September, 2022

ORAL JUDGMENT :

1. By this appeal appellant is seeking enhancement of compensation.

2. It is contention of learned Counsel for appellant that,

in the accident original claimant - appellant sustained injuries on his head, fracture on hand and injuries to his right leg. The appellant suffered 22% permanent disability. The Tribunal has awarded Rs.27,000/- including amount of Rs.25,000/- under no fault liability, which is very lower amount comparing to the disability caused to the appellant. Hence, requested to allow the appeal.

3. It is contention of learned Counsel for respondents that, no medical bills were produced before the Tribunal. Injury certificate was not proved by doctor by examining him. There were only fracture injuries which were curable. As such, no permanent injury was caused to the appellant. Hence, order passed by the Tribunal is legal and valid.

4. I have heard all the learned Counsel. Perused judgment and order passed by the Tribunal.

5. The Tribunal has awarded amount of Rs.22,000/- towards permanent disability and amount of Rs.5,000/- towards pain and suffering. In total, amount of

Rs.27,000/- has been awarded. In my view, it has come on record that appellant was admitted in GHATI Hospital, Aurangabad as indoor patient and operation was performed during that period on him, but the Tribunal has observed that, no document was produced in that regard on record. In my view, the Tribunal has considered 22% permanent disability of the appellant. If 22% disability is considered then appellant must have taken treatment in the hospital. The compensation amount awarded by the Tribunal is on lower side. Hence, I am considering amount of Rs.15,000/- towards pain and suffering and amount of Rs.5,000/- towards special diet. So, appellant is entitled for enhanced amount of Rs.20,000/- as enhanced amount. In view of the above, I pass the following order :-

ORDER

- (a) Appeal is allowed.
- (b) Appellant is entitled for amount of Rs.20,000/- @ 6% p.a. from the date of filing of application till realisation of the amount.

- (c) Respondent No.2 is directed to deposit enhanced amount within two weeks.
- (d) Appellant is permitted to withdraw amount.
- (e) Appeal is disposed of in above terms.

[S.G. DIGE, J.]