

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 1451 OF 2004

Nanda Bhaurao Ahire
Age : 32 years, Occ : Nil,
R/o Dattamandir Chouk,
Fagane, Tq. Dhule, Dist. Dhule.

..APPELLANT
(Original Claimant)

VERSUS

1. Hiranman Bandu Wagh
Age : 29 years, Occ : Jeepowner
& Political Worker,
R/o Near Wadibhokar Naka,
Deopur, Dhule,
Tq. & Dist. Dhule.
2. The Oriental Insurance Co. Ltd.,
Kalyan Bhavan, Lane No.2,
Dhule, Dist. Dhule.

..RESPONDENTS
(Original respondents)

...

Advocate for Appellant : Mr.M.H. Patil
Advocate for Respondent No.1: Mr. Amol S. Sawant
Advocate for Respondent No.2: Mr.R.F. Totala

...
CORAM : S.G.DIGE, J.

RESERVED ON : 28.09.2022
PRONOUNCED ON : 19.10.2022

JUDGMENT :

Being aggrieved with the judgment and award

passed by the Motor Accident Claims Tribunal, Dhule (for short, "the Tribunal"), the appellant – original claimant preferred this appeal seeking enhancement.

2. It is contention of the learned counsel for the appellant that the appellant has suffered 40% permanent disability in the occurred accident. There is certificate issued by the Civil Surgeon, Nandurbar at Exhibit-22 showing 40% disability but it was not considered by the Tribunal and has awarded paltry amount of Rs.45,000/- as compensation. Hence requested to allow the appeal.

3. It is the contention of the learned counsel for respondent no.2 that after the accident when appellant/claimant was treated at Chhatrapati Shivaji Maharaj Hospital, Kalwa, doctor has referred the injury as injury to right UL. There was no fracture injury but thereafter 40% disability certificate is issued on the basis of the treatment given at Kalwa. The disability certificate which is at Exhibit - 22 is false and bogus. No medical

expenses produced on record to show that she has undergone any operation or had taken any treatment for 40% disability. The order passed by the Tribunal is legal and valid.

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

5. The appellant is seeking enhancement on the ground that when she has suffered 40% disability, the inadequate compensation is awarded. On 9th January, 2000, the appellant was traveling by Jeep of respondent no.1 from Dhule to Washi on Kasara Bypass road on Mumbai-Agra Highway on that road accident was occurred to vehicle of claimant. She was treated at Chhatrapati Shivaji Maharaj Hospital, Kalwa and then at Dhule. Exhibit-21 is MLC certificate issued by the Medical Officer, Kalwa. In this certificate in the nature of injury column, it is mentioned that the injury to right UL. It is dated 9th January, 2000. Exhibit-23 is certificate issued by Dr. K.A. Saindane, Dhule.

In this certificate, it is mentioned that the appellant is suffering from contusion to right elbow and she needs rest for the period 18.01.2000 to 18.02.2000. The disability certificate is at Exhibit-22 issued by the Civil Surgeon, Civil Hospital, Nandurbar. The said disability certificate is issued on the basis of the M.L.C. certificate given at Kalwa Hospital and X-ray. In this document, it is mentioned that slight angulation of right UL, pain during movement, cannot perform heavy work. It is dated 1st November, 2000.

6. It is significant to note that the appellant was not admitted in the hospital though it is said that she has suffered 40% disability. No medical expenses produced on record to show that she was taking any pills or medicines for the disability she has suffered. No doctor is examined to prove her 40% disability. Exhibit-22 – disability certificate is issued on the basis of Exhibit-21, but from Exhibit-21, it does not reveal that there was permanent disability. It appears that the disability certificate is issued without any proper verification. Hence, I do not find any infirmity in the

order of the Tribunal.

7. In view of the above, I pass the following order:-

ORDER

- (i) The appeal is dismissed.
- (ii) No order as to costs.

**[S.G.DIGE]
JUDGE**

SGA/-