

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

FIRST APPEAL NO.1773 OF 2014

**VISHWANATH KHANDUJI KALE
VERSUS
BALU SAHDEV SONTAKKE AND ANOTHER**

...
Mr. Sachin S. Deshmukh, Advocate for the Appellant.
Mr. S. S. Rathi, Advocate for Respondent No.2.
...

CORAM : S. G. DIGE, J.

DATED : 14th OCTOBER, 2022.

PER COURT:-

1. By way of this Appeal appellant/orig. claimant (for short 'claimant') seeks enhancement of compensation.

2. It is the contention of the learned counsel for the appellant that, on 16.04.2010 while proceeding towards Aundha in an Auto Rikshaw it was turtle down. On account of the said, the claimant sustained multiple injuries and sustained disability to the extent of 30% on account of interlocutrice fracture to left femur, lacerated wound to left maxillary region, which is further endorsed by the Doctor in his evidence, but Tribunal has not considered this fact and Awarded compensation of Rs.1,08,853/- where the claimant's claim was Rs.3,00,000/-. The learned counsel further submits that, claimant incurred an amount of Rs.75,153/- towards hospital medical bills, but

it was not considered by the Tribunal. Hence, requested to allow the Appeal.

3. It is the contention of the learned counsel for respondent no.2 that, the injuries sustained by the claimant were recoverable. When the claimant was discharged from the hospital all injuries were recovered. There is no loss of earning caused to the claimant due to the said accident. The Tribunal has considered all the aspects and has granted compensation which is just and proper.

4. I have heard both the learned counsels and perused the judgment and order passed by the Tribunal.

5. The claimant is seeking enhancement on the ground that the Tribunal has not properly awarded the compensation. The Tribunal has awarded Rs.1,08,853/- as compensation to the claimant. It has come on record that the claimant has suffered 30% permanent disability. The Tribunal has awarded lump-sum compensation on account of permanent disability of Rs.25,000/-. In my view, when Tribunal has considered permanent disability caused to the claimant and it has come on record that he had suffered 30% disability, I am considering Rs.75,000/- as compensation towards disability. The compensation awarded under other heads is proper, hence, no interference is required in it.

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

ORDER

- a. The appeal is allowed.
- b. The appellant is entitled for enhanced amount of Rs.50,000/- at the rate of 6% per annum from the date of filing appeal till its realization.
- c. The respondents shall deposit enhanced amount alongwith accrued interest thereon within six weeks before this Court.
- d. The appellant is permitted to withdraw the deposited amount.
- e. Deficit Court fees, if any, be paid.
- f. Appeal is disposed of in above terms.

(S. G. DIGE)
JUDGE