

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

FIRST APPEAL NO. 1659 OF 2010

Gopinath S/o Dnyanoba Shinde
Age : Major, Occ : Business,
R/o Belpuri, Tq. & Dist. Beed.

APPELLANT
(Original respondent)

VERSUS

Babamiya S/o Gulabkhan Pathan
Age : 65 years, Occ : Agri.,
R/o Kurla, Tq. & Dist. Beed.

...RESPONDENT
(Original claimant)

...

Advocate for Appellant : Mrs.M.A. Kulkarni
Advocate for respondent : Mr.S.K. Naikwade

...
CORAM : S.G.DIGE, J.
DATE : 27.07.2022

JUDGMENT :

Being aggrieved and dissatisfied by the judgment and award passed by the Motor Accident Claim Tribunal, Beed this appeal is preferred by the appellant-original respondent.

2. Brief facts of the case are as under :-

On 22nd May, 2005 at about 7.00 p.m. to 7.30 p.m., the original claimant (respondent) was travelling in Auto

Rickshaw bearing registration No.MH-14/9247 along with other passengers from Mondha Beed to Kurla, the driver of the offending Rickshaw i.e. the appellant was driving the said Rickshaw in rash and negligent manner and in high speed, he could not control steering on the turning point, ultimately said offending Rickshaw turned turtle, as a result the passengers felled down on the person of the respondent and respondent sustained the grievous injuries in that accident.

3. The respondent – original claimant filed claim petition for getting compensation before the Motor Accident Claims Tribunal, Beed (for short, “the Tribunal”). After considering the evidence and hearing the parties, the Tribunal has granted compensation of Rs.1,21,495/-. Against the said judgment and order the present appeal.

4. It is contention of the learned counsel for the appellant that the said accident was not occurred due to negligence of the appellant but the respondent was dashed

by unknown motorcycle. On humanitarian ground the appellant had taken the respondent to the hospital in his rickshaw. Due to said act, the appellant is involved in a false case. The learned counsel for the appellant further submits that the Tribunal has given compensation on higher side.

5. The learned counsel for the respondent submitted that it is proved from the police papers that the accident was occurred due to rash and negligent driving of the appellant. The Tribunal has calculated the compensation properly. The order passed by the Tribunal is legal and valid.

6. I have heard both the learned counsel. Perused the judgment and order passed by the Tribunal.

7. Though, the appellant is stating that the respondent was hit by unknown motorcycle and he took him to the hospital, no evidence produced before the Tribunal in support of contention of the appellant. The

appellant has not stepped into witness box to prove his contention. Without any evidence mere pleadings of the appellant can not be considered as evidence. It appears from the record that the accident occurred due to negligence of the appellant, hence I do not find merit in the contention of the learned counsel for the appellant that the said accident was occurred due to dash by unknown motorcycle and not by the appellant.

8. In respect of the contention of compensation awarded to the respondent on higher side, it appears from the record that the respondent had suffered two grievous injuries and two simple injuries. Operations are performed on the respondent in various hospitals for those injuries. The medical expenses of Rs.95,695/- are incurred by the respondent and these medical expenses are proved from bills i.e. Exhibit – 25 to 147. The Tribunal has granted compensation under head of transportation charges, attendance charges and expenses incurred towards special diet, loss of income for hospitalization for 28 days as well as

compensation for two simple injuries and two grievous injuries are proper. Hence I find no reason to interfere in the judgment and order passed by the Tribunal. Accordingly, I pass the following order :-

ORDER

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

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

SGA/-