

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

993 FIRST APPEAL NO.1350 OF 2022

YOGESH KRISHNA BORADE
VERSUS
YOGESH BHANUDAS KHAIRE AND ORS

...
Advocate for Appellant : Mr. Kulkarni Sudhir V.
Advocate for Respondent No.3 : Mr. S.S. Dargad h/f Mr. S.G.
Chapalgaonkar
.....

CORAM : S. G. DIGE, J.
DATED : 23rd SEPTEMBER, 2022

PER COURT:-

1. This appeal is preferred seeking enhancement in the compensation amount.

2. It is the contention of the learned counsel for the appellant that the applicant-original claimant was met with an accident and sustained injury due to dash given by the motor cycle rider-respondent No.1. The appellant was admitted in the hospital for 21 days. He got 24% disability due to the said accident. He was in private service. Though the appellant suffered 24% disability, the Tribunal has awarded lump-sum amount of Rs.25,000/- under the head of pains and sufferings. It is very meager amount comparing to the disability suffered by the appellant-claimant. Learned counsel further submitted that no compensation is awarded under the heads of transportation, loss of life amenities and special diet. Hence, requested to allow the appeal.

3. It is the contention of learned counsel for respondent No.3 that

there is no loss of income to the appellant, as even after the accident he continued in the service. The 24% disability suffered by the appellant is limb disability and not functional disability. The amount of compensation awarded by the Tribunal is on the basis of evidence led before the Tribunal. Learned counsel submits that the appeal was filed in the year 2018 and delay is condoned in the year 2022. Hence, the appellant is not entitled for interest for this period. While awarding the compensation, the Tribunal has considered all aspects. The order passed by the Tribunal is legal and valid.

4. I have heard learned counsel for both the parties, perused the judgment and order passed by the Tribunal.

5. The issue involved in this appeal is that the proper compensation is not awarded. The Tribunal has considered that the appellant has suffered 24% permanent disability. The Tribunal has not granted compensation amount under the heads of loss of life amenities, transportation and special diet. It has come on record that the appellant was residing at Wahegaon, Tq. Paithan, District Aurangabad and he was admitted at GHATI Hospital, Aurangabad. Therefore, he is entitled for transportation charges. Hence, I am considering Rs.10,000/- as transportation charges. It appears from the record that a steel rod is fixed in the right thigh of the appellant. The Tribunal has not awarded compensation regarding loss of life amenities. Hence, I am considering Rs.15,000/- for loss of life amenities. The Tribunal has not awarded the

amount for special diet. I am considering Rs.10,000/- amount for special diet. If all these amounts calculated, it comes to Rs.35,000/- (Rupees Thirty five thousand). Hence, the appellant is entitled for Rs.35,000/- as enhanced amount of compensation.

6. It appears from record that there was delay in filing of appeal but the appellant has not taken necessary steps for getting the said delay condonation application circulated. Delay is condoned by this Court on 14.6.2022. Thus, In my view, the appellant is not entitled for interest on enhanced amount from 27.9.2018 to 14.6.2022. In view of above, I proceed to pass the following order:

O R D E R

- I. The first appeal is allowed.
- II. The appellant is entitle for enhanced amount of compensation of Rs.35,000/- (Rupees Thirty five thousand) with interest @ 6% p.a from the date of filing of application till its realization.
- III. The appellant shall not entitle for interest on enhanced amount for the period from 27.9.2018 to 14.6.2022.
- IV. The appellant is permitted to withdraw enhanced amount.
- V. First appeal is disposed of.

(S. G. DIGE, J.)