

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1337 OF 2007

Shri Shriram Hiralal Pardeshi)
 Age about 35 years, Occ : Business,)
 Residing at : Saibaba Auto Centre,)
 Akurdi Chowk, Chinchwad, Pune.) ...Appellant

Versus

1. Shri Maruti Chandar Chavan)
 Age 26 years,)
 Occ.Service (Driver),)
 Residing at : Ganesh Nagar,)
 Hiranman Barne Vit Bhatti,)
 Wakad Road, Thergaon,)
 Pune 411 018.)

2 Shri Shivrang Chandu Barne,)
 Age : Adult, Occ : Business,)
 R/at : Near Padmaji Paper Mills)
 Thergaon, Pune 411 033.)

3. The Divisional Officer,)
 The Notional Insurance)
 Co.Ltd.,Divisional Office No.1,)
 11, M. G. Road,)
 Red Cross House, Fourth Floor,)
 Pune 411 001.)Respondents

Mr. Sanjiv A. Sawant, Advocate for the Appellant.
 Mr. Abhaykumar Apte, Advocate for Respondent No.1 and 2.
 Ms. Sneha S. Dwivedi, Advocate for Respondent No.3.

CORAM : S. G. DIGE, J.

DATE : 23rd DECEMBER, 2022.

JUDGMENT :

1. This appeal is preferred by the appellant/original claimant for enhancement of compensation.

2. Learned counsel for the appellant submits that the appellant has suffered 18% permanent disability in the accident. He was admitted in the hospital for around 1 month but the Tribunal has awarded meagre compensation of Rs.30,850/- which is inadequate. The Tribunal has not considered the evidence given by the Doctor who has stated that the injury sustained by the appellant is on the higher side. The appellant was motor mechanic at the time of the accident. After the accident, he is unable to do any work. Hence, requested for enhancement of the compensation.

3. Learned counsel for respondent No.3 submits that there was mere 18% disability caused to the appellant in the accident. It was in fact not a disability but it was a fracture injury. The Doctor has not stated that the appellant was permanently disabled. Considering all the aspects, the Tribunal has awarded compensation which is proper.

4. I have heard both learned counsel, perused the judgment and order passed by the Tribunal. The Tribunal has considered 18% disability and has awarded compensation of Rs.30,850/-. While awarding the compensation, the Tribunal has considered the evidence of PW2-Dr. Shintre at Exhibit -32. Dr. Shintre has stated that the appellant has sustained 18% permanent disability and his disability is on higher side. On that basis, the Tribunal has awarded compensation. The Tribunal has awarded Rs.18,000/- towards permanent disability, Rs.7000/- towards pain and suffering. The Tribunal has, thereafter, considered medical bills. The Tribunal has awarded Rs.3000/- towards loss of actual income.

5. In my view, the Tribunal has not considered loss of amenities in life, loss of compensation for conveyance. Admittedly, the appellant was the resident of Akurdi Chowk, Chinchwad, Pune. Whereas, he was admitted in YC M Hospital at Pimpri from 12th October, 2000 to 3rd November, 2000. The Tribunal has not considered the amount for special diet. Hence, I am considering the amount of Rs.10,000/- for special diet, Rs.10,000/- for conveyance, Rs.10,000/- for pain and suffering, Rs.10,000/- for loss of amenities

in life and Rs.10,000/- for permanent disability. In view of the above calculations, the appellant is entitled for Rs.50,000/- as compensation as enhanced compensation.

6. Learned counsel for the respondent No.3 submits that if this Court is inclined to enhance the compensation, the interest should be awarded from the date of filing of this appeal and not from the date of filing of the claim petition ie. Year - 2001.

7. Learned counsel for the appellant consented for it, hence I am awarding the interest on enhanced amount from 1st January, 2007.

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

1. The appeal is allowed.
2. The appellant is entitled for enhanced compensation of Rs.50,000/- at the rate of 7.5% interest per annum from 1st January, 2007 till the realization of the amount.

3. The Respondent No.3 is directed to deposit the enhanced amount with accrued interest within six weeks from the receipt of the order before the Tribunal at Pune.
4. The appellant is permitted to withdraw the amount deposited by the appellant along with accrued interest thereon.

The appeal stands disposed of.

9. In view of disposal of the appeal, all pending civil/interim applications stand disposed of.

(S. G. DIGE, J.)