

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 352 OF 2023

Akshay D/o. Amarnath Putta	)	
Age: 13 years, Occ: Education	)	
Being Minor through her father	)	
Amarnath Pandurang Putta	)	
Age: 39 years, Occu: Business	)	
R/o. 1314 Daji Peth, Solapur	)	Appellant (Original Claimant)

Versus

1. Solapur Municipal Corporation	)	
Indrabhuvan, Solapur.	)	
(Notice be served on its Commissioner))		
2. United India Insurance Company Ltd.	)	
Navi Peth, Near Paras Estate, Solapur	)	Respondents (Original Respondents)

T. J. Mendon i/b Ms. Rekha Pangave for the Appellant.
 Mr. I. M. Khardi for the Respondent No.1.
 Mr. Amol Gatne for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 20th DECEMBER, 2023.

Oral Judgment. :

1. This Appeal is preferred by the Appellant/Claimant against the judgment and order passed by the Motor Accident Claims Tribunal, Solapur (for short “the Tribunal”).

2. Learned counsel for the Appellant submits that, Appellant was proceeding on motorcycle with her father, at that time the offending Tanker dashed the motorcycle, due to which Appellant sustained injuries. The Appellant had filed claim petition for getting compensation through his next friend i.e. father before the Tribunal. The Tribunal has dismissed the Claim Petition on the ground that Appellant has not produced any evidence to show that Appellant had injured in the accident. Learned counsel further submitted that the offence was registered against the driver of offending Tanker but this fact is not considered by the Tribunal. Hence, requested to allow the Appeal and matter be remanded to the trial Court for fresh consideration.

3. Learned counsel for the Respondent Nos.1 and 2 vehemently submitted that Appellant has not produced any evidence before the Tribunal, to prove that he had injured in the accident nor any witness was examined. The order passed by the Tribunal is legal and valid and no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Tribunal while dismissing the Claim Petition of Appellant/Claimant. The Tribunal has observed that, no evidence was produced before the Tribunal, to prove that driver of offending Tanker had dashed to the motorcycle, on which Appellant was travelling and he had injured in the said accident.

5. It is significant to note that, the same Tribunal has allowed the Claim Petition filed by the father of the Appellant hence, I find it is fit case for remand for giving opportunity to both sides to produce the evidence, in support of their contention.

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

ORDER

- i. Appeal is allowed.
- ii. The judgment and order passed by the Motor Accident Claims Tribunal, Solapur dated 13th June 2018 is quashed and set aside.
- iii. The matter is remanded back to the Tribunal, Solapur for fresh hearing. Both parties are at liberty

to lead evidence in support of their contention.

iv. The Appellant is not entitled for interest for the period from 13th June, 2018 till today, if he succeeds in the Claim Petition.

v. The Tribunal shall decide the Claim Petition on its own merit.

vi. The parties to appear before the Tribunal on 29th January, 2024.

7. Pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)