

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1044 OF 2022**

National Insurance Company Limited

Sterling Cinema Building 5th Floor, 65,
Murzban Street Fort, Mumbai – 400 001

....Appellant

Versus

1. Shri. Abdul Sattar Abdul Majeed Shaikh

Residing at : D. M. G. - 217, Tulsiwadi,
Zopadpatti Bhanjibhai Rathod Marg,
Tulsiwadi Tardeo, Mumbai – 400 034

2. Gurpeet Singh Bains

Prem Nagar, Madan Mahal, Jabalpur
Madhya Pradesh 482 001

....Respondents

Mr. Rahul Mehta i/b KMC Legal Venture, Advocate for the Appellant.
Mr. Baliram Kamble, For Respondent No. 1.

CORAM : S. G. DIGE, J.

DATE : 2nd March, 2023

JUDGMENT :

1. The issue involved in this appeal is exorbitant and excessive compensation awarded by the Tribunal.
2. It is contention of learned Counsel for Appellant that The

Tribunal has considered the disability of Respondents / Claimants on higher side. On that basis compensation is awarded. The learned Counsel further submits that at the time of accident the offending vehicle was not holding permit, but this fact is not considered by the Tribunal. Hence, requested to allow the Appeal.

3. Learned Counsel for the Respondents / Claimants submits that the Claimant was injured in the accident. He suffered permanent disability in the said accident. To prove disability, Dr. Khanna was examined and he has stated that Claimant has suffered 62% disability, on that basis, the Tribunal has awarded the compensation, which is proper.

4. I have heard both learned Counsel. Perused the judgment and orders passed by the Motor Accident Claims Tribunal (for short the Tribunal).

5. Admittedly the Claimant was injured in the accident. To prove the disability, Claimant has examined Dr. Khanna (AW-2). He has stated that, he has assessed permanent partial disability of the Claimant as 62% and issued the disability certificate (Exh.-22). This witness further stated that the patient will require further physiotherapy treatment and observation. He further stated that the left hip is unstable and requires support while walking and the patient walks with a limp.

6. From the evidence of this witness, it appears that there was injury to the hip of deceased. It was dislocated and there is 62% permanent partial disability is given by the Dr. Khanna. Nothing is

elicited in the cross examination of Dr. Khanna. It proves that the Claimant was suffered 62% disability, after accident he can't walk properly or sit property.

7. The Tribunal has awarded Rs.1,46,800/- as a compensation after considering medical bills and disability. It includes amount of pain and suffering, which are proper. Though the Appellant have raised the issue of permit of offending vehicle but Appellant has not examined any witness, to prove this fact. Hence I do not find any infirmity in it.

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

ORDER

- i. Appeal is dismissed. No order as to cost.
- ii. The Respondents / Claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
- iii. The statutory amount along with accrued interest be transmitted to the Tribunal. Parties are at liberty to withdraw, it as per rule.
- iv. All pending Civil Applications, if any, are disposed of.

(S. G. DIGE, J.)