

Shriram General Insurance Co. Ltd.)
 Above Subha Hotel, 31, Sitavihar)
 1st Floor, Thane – West, Pin : 400 601)
 Policy No.215064/31/12/000593) ,,,Appellant/
 Valid from 25.08.2011 to 24.08.2012) Original Opponent No.2

1. Sushil Jiyalal Jha	)	
Aged 28 years	)	
Residing at Room No.:1,	)	
Dada Pande Compound,	)	
Ketki Pada, S. P. Road,	)	
Near Shiv Mandir, Dahisar-East,	)	
Mumbai-400 066.	)	Original Applicant
2. Inus A. Jahagiradar	)	
Own House, Vahuli Village	)	
Popadgha, Bhiwandi,	)	..Original Opponent No.1.
thane: 421 302.	)	Respondents

CORAM : S. G. DIGE, J.

Judgment :

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SHANKAR
KADAM

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2. It is contention of learned counsel for the appellant that no disability was proved before the Tribunal, in spite of that, the Tribunal has considered the disability of the claimant on higher side and has awarded excessive compensation. Learned counsel further submits that the Tribunal has awarded Rs.1,00,000/- for pain and suffering, which is excessive. Learned counsel further submits that no evidence was produced before the Tribunal regarding medical expenses, in spite of that, compensation for medical expenses is awarded. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.1/claimant that the claimant was seriously injured in the accident. He was admitted in the hospital for couple of days. There were internal abdominal injuries caused to the claimant which are not completely cured. After the accident, the claimant is unable to do any work. Considering the evidence on record, the Tribunal has awarded compensation, which is proper.

4. I have heard both learned counsel, perused the judgment and order passed by the the Tribunal. To prove the disability of the claimant, the claimant has examined Dr. Naresh Khanna. He has stated that on 20th December 2013 he examined the claimant.

From the hospital papers, it was revealed to him that in the accident, the claimant had sustained injuries viz. (1) Diaphragmatic rupture, (2) Hemothorax and (3) Hemoperitoneum. The medical treatment of exploratory diaphrotomy with diaphragm was given. So also laprotomy for intestinal obstruction was done. The claimant was an indoor patient in Raksha Hospital from 11th May 2012 to 11th June 2012 and re-admitted on 28th June 2012 for one day treatment. Thereafter, he was admitted in Sai Sparsh Hospital from 16th July 2012 to 28th July 2012 as an indoor patient. On clinical examination, this witness found deformities viz. (1) Tenderness and scarring of abdominal region, (2) Unable to exert/climb stairs/ stand or walk for long (3) Unable to do day-to-day activities, (4) Patient was getting breathless on walking short distance. Therefore, this witness assessed 32% permanent partial disability and issued disability certificate which is at Exhibit "12". This witness further stated that the claimant required further treatment of physiotherapy to increase the lung capacity. In cross-examination, a question was put to this witness 'whether as on date, the internal injuries of the claimant are healed?'. This witness answered that the injuries are not completely cured and, according to this witness, 50% injuries might have healed.

5. From the evidence of this witness, it appears that the claimant had suffered abdominal injuries. He had suffered 32% permanent partial disability. All injuries are internal injuries to his abdomen. The claimant had taken treatment in three hospitals. He was admitted in the hospital for couple of days. After discharge, he was again admitted in the hospital for treatment. It appears that his injuries are not completely cured. So, I do not find merit in the contention of learned counsel for the appellant that the disability of the claimant is considered on the higher side.

6. In respect of the contention of learned counsel for the appellant that no evidence was produced before the Tribunal regarding medical expenses, it has come on record that the claimant has submitted the bill of Rs.4,66,335/- before the Tribunal and, on that basis, this amount is considered by the Tribunal. I do not find any infirmity in it.

7. In respect of the amount of Rs.1,00,000/- awarded under pain and suffering, in my view, considering the nature of injuries as well after discharge, the claimant was again admitted in the hospital for treatment, he was admitted in hospital for couple of days, his

injuries are not completely cured, I find the amount awarded for pain and suffering is proper. In view of above, the appeal is devoid of merit and I pass the following order :

1. The appeal is dismissed. No order as to cost.
 2. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 3. The statutory amount along with accrued interest be transmitted to MACT, Mumbai. The parties are at liberty to withdraw it as per Rule.
8. Pending applications, if any, stands disposed of.

(S. G. DIGE, J.)