

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1717 OF 2013**

National Insurance Co. Ltd.	}	
5th Floor, Sterling Cinema Building,	}	
65, Marzaban Road, Fort,	}	
Mumbai-400 001.	}	...Appellant

Versus

1. Mr.Madhukar Hari Sathaye	}	
R/at Om Shri Parag Society,	}	
Sudarshan Colony, Thane-East	}	...Respondents

...

Mr. Rahul Mehta i/by KMC Legal Venture Advocate for the Appellant.

...
CORAM : S. G. DIGE, J.

DATE : 20TH FEBRUARY, 2023.

JUDGMENT :-

1. The issue involved in this appeal is compensation awarded on higher side.

2. It is the contention of learned counsel for the appellant that without any disability certificate, the Tribunal has awarded compensation of more than Rs. 49,000/- to the claimant, which is on higher side. Hence, requested to allow the appeal.

3. The appeal is of year 2013. None present for

Respondents. Hence, I am deciding this appeal on merit.

4. I have heard learned counsel for the appellant. The accident was occurred on 15th July 2004. The applicant along with Prakash Moholkar and Shripad Bhole were coming to Mumbai in Maruti car bearing No. MH-20-E-2269. Prakash Moholkar was driving the said car in moderate speed and on correct side of the road. The offending truck which was coming from opposite direction while overtaking another vehicle ahead of it, in high, excessive and improper speed, came to the wrong side and dashed to the car. Prakash Moholkar died in the said accident, whereas, claimant received injures. Thereafter, he was admitted in the hospital. The offence was registered against the driver of offending truck. While awarding the compensation, the Tribunal has observed that the claimant has spent Rs.17000/- towards hospitalization and medicines and he spent an amount of Rs. 3410/- towards flight charges as he came from Goa to Mumbai by flight. Claimant continued his treatment in Sushrut Nursing Home and he was in said hospital for about four days. Thus, he has spent amount of Rs. 2390/- regarding the said hospital charges. He took treatment in the said hospital including the follow-up treatment. After that also, he

was suffering from back pain and cannot span for long time and on that basis, the Tribunal has further considered that taking into consideration the period for which applicant took treatment i.e. entire period of 30 to 35 days. The Tribunal has considered the loss of earning for a period of one month i.e. Rs.20,000/- under the head of actual loss of income. The Tribunal has granted Rs. 2,000/- for special diet, Rs. 5,000/- for conveyance and Rs. 5000/- loss of enjoyment of life and amenities in future and Rs. 3,000/- granted as attendant charges. So, the Tribunal had granted total amount Rs. 49,396/-. I do not find any infirmity in it. When it has come in the evidence of claimant at Exhibit-13, after the injury in accident, he became unconscious and thereafter, he was in Civil Hospital, Sawantwadi. Thereafter, he took treatment in various hospitals and he has spent huge amount on it. In view of above, I pass following order.

O R D E R

- i. Appeal is dismissed. No order as to cost.
- ii. Statutory amount of Rs. 25,000/- be transferred to the Motor Accident Claims Tribunal, Thane. Parties are at liberty to withdraw it.

(S. G. DIGE, J.)