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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**12 CIVIL APPLICATION NO. 1780 OF 2024
IN FA/62/2024**

SHUBHAM VITTHAL KUMBHAR

....Applicant

VERSUS

DHANANJAY BHARATRAO BORDE AND ORS

.....Respondents

Mr. Amol P. Khedkar, Advocate for the applicant

Mr. S. S. Rathi, Advocate for respondent No.3

CORAM : S. G. MEHARE, J.

DATE : 08th MARCH, 2024

P. C.

1. Heard the learned counsel for the parties.
2. Learned counsel for the applicant submits that learned Tribunal considered the notional income of Rs.25,000/- per months for an engineering student. The learned Tribunal also considered the loss of earning capacity due to permanent disability. The permanent disability certificate is of 22%. However, learned tribunal has considered only 15%. The

compensation has been correctly determined. The appellant has deposited only 75% of the amount of the award. Hence, the application be allowed.

3. Learned counsel for the respondents submits that the applicant was hospitalized only for six days. He had a case that he was learning and earning. In such circumstances, notional income theory ought not to have been considered. Learned Tribunal awarded exorbitant amount of Rs.5 lakhs towards pain and suffering, trauma, inconvenience etc. Compensation on loss of earning capacity due to permanent disability has also been determined. Exorbitant amount of Rs.3 lakhs has been granted to him for loss of earning during period of treatment.

4. Learned counsel for respondents submits that the compensation has been granted sympathetically instead of applying law. The facts remains that the applicants is met with accident and suffered disablement.

5. Therefore, following order is passed:-

ORDER

- i] The application is partly allowed.
- ii] Applicant is allowed to withdraw 50% of the amount deposited with this court on the undertaking that he would deposit the amount, if the judgment and award is reversed.

[S. G. MEHARE, J.]

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