IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 842 OF 2004

Umakant S/o. Ramesh Jewale,
Age: 20 Years, Occu.: Education,
R/o. Moti Nagar, Latur,
District – Latur **.. Appellant**
(Orig. Claimant)

Versus

1. Vilas S/o Nivarti Rachmale,
Age: 29 Years, Occu.: Driver,
R/o. Mavalgaon, At present
C/o. Padile House, Bhatangali,
Tq. & Dist. Latur

2. Ramesh S/o. Gunappa Jewale,
Age: 48 Years, Occu.: Business,
R/o.: Raiwadi, Tq. & Dist. Latur

3. National Insurance Co. Ltd.,
Through its Branch Office,
Hanuman Chowk, Latur **.. Respondents**

...

Advocate for Appellant :
Mr. Bhushan Mahajan h/f. Mr. N. B. Patil Raiwadikar
Advocate for Respondent No.3 : Mr. V. N. Upadhye

...

CORAM : ARUN R. PEDNEKER, J.
DATE : 29th AUGUST, 2024

ORAL JUDGMENT:

1. The claimant has filed the present first appeal challenging the order dated 22.01.2004, passed by the Motor Accident Claims

Tribunal, Latur in M.A.C.P. No.298 of 2000, granting total compensation of Rs.29,000/- to the claimant towards the injuries suffered by him in an accident.

2. The facts leading to the filing of the petition is that the claimant was travelling in a mini bus having registration no.MH-24-A-2601 from Latur to Ahmedpur. At about 09:30 p.m. the said bus gave dash to a parked truck having registration no.DL-1-G-A-9313 resulting into an accident. The claimant suffered permanent disability in the accident.

3. The claimant filed the claim petition before the tribunal for compensation for injuries and disability caused to him in the accident, against driver, owner of the bus, so also, against the insurance company of the bus.

4. The tribunal on the basis of the evidence held that the bus driver was negligent in driving the bus and granted the compensation. As regards the permanent injury is concerned, the MACT at para 14 has observed as under:

> ***"14. Claimant has produced on record injury certificate at Exh. 40 and as per said injury certificate issued by Medical Officer, Rural Hospital, Chakur, there was fracture of tibia fibula lower 1/3rd right leg of the Claimant. Claimant has also produced on record disability certificate at Exh.36. As***

> ***per said disability certificate claimant is suffering from 15 per cent disability because of the malunited fracture lower end of the tibia. This medical evidence is certainly establishing that with injuries in said accident claimant is suffering from permanent partial disability. Consequently, point No.5 is answered as injuries resulting into permanent partial disability were caused to the claimant."***

5. The tribunal has accepted the injury certificate at Exhibit 40 issued by the Medical Officer, Rural Hospital, Chakur, that, there is fracture of tibia fibula lower 1/3rd right leg of the claimant, so also, the disability certificate is produced at Exhibit 36. The said disability certificate mentions that the claimant is suffering from 15% disability of permanent nature.

6. As regards the compensation part is concerned, the tribunal has computed considering the income of the claimant at Rs.2000 per month, he has been granted Rs.6000 for loss of income for 3 months i.e. the period under treatment, he has been granted compensation for disability of Rs.10,000/-, the total amount of Rs.29,000/- was granted to the claimant.

7. Although, Rs.10,000/- is granted as compensation towards disability, the tribunal having accepted that the claimant has suffered 15% permanent disability, it has not granted compensation towards future loss of income on account of the permanent disability.

8. The learned counsel for the insurance company has strongly opposed for grant of compensation on loss of income, as there is no evidence produced by the claimant as regards the future loss of income as well as the medical certificate has not been proved by the Doctor.

As regards the submission of the learned counsel for the insurance company is concerned, the medical certificate is issued by the Medical Officer, Rural Hospital, Chakur. The tribunal has also accepted the certificate and has granted compensation. There is no challenge to the grant of compensation by the tribunal. However, only the compensation of loss of future income is not granted.

9. The tribunal has not granted loss of future income considering the permanent disability of the claimant and considering that he has not produced any evidence to show functional disability, the same can be considered to the extent of 15% of his income. The income is considered by the tribunal as Rs.2000/- per month and considering that the claimant has suffered 15% permanent disability the loss of income towards the disability would be taken as 15%. As such, the loss of income should be at Rs.300/- per month i.e. worked out to Rs.3,600/- per year.

10. By applying the multiplier of 17, loss of future income works out to Rs.61,200/-, loss of future prospects is Rs.24,480/-. Thus, the loss

of future income works out to Rs.85,680/-. Thus, the claimant would be entitled to additional compensation of Rs.85,680/- along with accrued interest of 7.5% per annum from the date of the claim petition till the date of the realization of the amount. The insurance company to deposit the enhanced amount within a period of eight (08) weeks of the uploading of this Judgment. The claimant is entitled to withdraw the same.

11. The First Appeal is allowed.

[ARUN R. PEDNEKER, J.]

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