

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.1580 OF 2002
WITH
CIVIL APPLICATION NO.2760 OF 2002
IN
FIRST APPEAL NO.1580 OF 2002

The New India Assurance Co. Ltd. Appellant

V/s.

Dhanaji Pandurang Pawar & Anr. Respondents

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Ms.Poonam Mital, for the Appellant.

Mr.Sharad Bhosale i/b Mr.Dilip Bodake, for Respondent No.1.

CORAM : ARUN R. PEDNEKER, J.

DATE : 20th JUNE 2024

P.C:-

. Heard learned counsel for the Appellant.

2. The present Appeal is filed u/s 30 of the Workmen's Compensation Act, 1923 on the substantial questions of law by the insurance Company as under :-

(i) *Whether disability suffered by the Applicant to the extent of 20% would amount to 100% loss of earning capacity without medical evidence in the facts of the instance case ?*

3. I have perused the evidence of the doctor, part of which is reproduced, at paragraph 7 of the judgment as under:-

“2. In my opinion the Applicant cannot drive any vehicle as his left leg is permanently disabled for operating any vehicle and as such he cannot do any work of driving.”

4. Undisputedly, Claimant was a driver of the goods truck and he has suffered fracture to the left leg and suffered permanent partial disability. The disability is such that he is not able to drive any vehicle. The claimant being a driver the loss of income is total and thus there is no perversity in the judgment of the tribunal that the claimant suffered 100% loss of earning capacity. Thus the appeal does not give rise to any substantial question of law. The appeal under Section 30 of Workmen's Compensation Act being maintainable only on substantial question of law, I see no reason to interfere with the impugned judgment of tribunal. In view of this, the Appeal is dismissed. Outstanding payment with interest to be paid to the claimant within 8 weeks.

5. All pending Civil and Interim Applications are disposed of.

(ARUN R. PEDNEKER, J.)