

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1784 OF 2006

1. Testo Engg. Works	]	Appellants
46/2 Kaka Halwai Industrial Estate, Pune- 411 004	]	
2. Satish Mahadeo Wagh	]	
Age – Adult, Occ: Driver	]	
R/o & P.O.- Mandavgan Farata	]	
Tal : Shirur, Dist. Pune	]	
At Post, Tal & Dist. Ratnagiri	]	
3. The New India Assurance Co. Ltd.	]	
2420, Gen. Thimayya Rd., Pune – 411 004	]	
Versus		
Smita Vilas Chidarkar	]	
Age – 37 yrs., Occ. Service	]	
R/o. K. P. Nagar, Above Sonali Flour Mill,	]	
Dhankavdi, Pune	]	Respondent

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- Ms. Kalpana R. Trivedi, Advocate for Appellant No.3/Insurance Company.
- None for Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th JANUARY, 2024.

JUDGMENT :

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

2. It is the contention of learned counsel for the appellant No.3/Insurance Company that initially claim was filed for Rs.1,20,000/- but the Tribunal has awarded amount of Rs.1,65,000/- which is not proper, hence requested to allow the appeal.

3. Though respondent is served none present for respondent. The appeal is of year 2006, hence I am deciding it on merit.

4. Admittedly, due to accident the claimant has sustained injury to his right foot in which fingers of the right foot are cut and the claimant has sustained disability of 10%. Considering the evidence on record, the Tribunal has awarded compensation of Rs.1,65,000/- to the claimant. It is the contention of learned counsel for the appellant No.3/Insurance Company that when the Claim Petition was filed for Rs.1,20,000/- more amount should not have been granted by the Tribunal. In my view, it is settled principle of law if the claimant is entitled for more amount, then the Tribunal has discretion to award it. I do not see merit in the contention that the Tribunal should not have awarded more compensation than claimed in claim petition.

5. In view of the above, I pass following order.

ORDER

- (i) The appeal is dismissed. No order as to costs.
- (ii) The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- (iii) The statutory amount be transmitted to the

Tribunal along with accrued interest
thereon.

6. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

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