

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2009 OF 2008

Shri.Subhash Motilal Mohata }
Age-50 years, Occupation : Service, }
R/o. 120, Cooper Colony, Sadarbazar, } (Org. Claimant)
Satara }Appellant

Versus

1. Aurn Digambar Mohire }
Age-Adult, Occupation : Service, }
R/o. 514, Mangalwar Peth, Satara }
 }
2. National Insurance Co. Ltd. }
Brach Office, Ganeshchandra Chamber, }
Powai Naka, Satara. }Respondents

Mr.Sangramsinh Yadav a/w Mr.Harvinder Kaur Rogi, for the
Appellant.

Ms.Poonam Mital, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 12th FEBRUARY 2024

ORAL JUDGMENT :-

. By way of this Appeal, the Appellant-Claimant is
seeking enhancement of compensation.

2. It is contention of the learned counsel for the
Appellant-Claimant that, due to accidental injuries the

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Appellant-Claimant has suffered injury to his brain. The fractured portion of skull is removed. The Claimant was unconscious for 10 days. Due to accidental injuries the Claimant is unable to do any work, but this fact is not considered by the Tribunal and has awarded compensation on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for Respondent-Insurance Company that, the Claimant has suffered 10% physical permanent disability. Considering the disability the Tribunal has passed reasoned judgment and order. No interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Satara.

5. To prove the disability the Claimant examined himself. He has stated that due to the accidental injuries he was admitted in Civil Hospital, Satara. He was unconscious and serious. Thereafter, he was referred to Sanjeevani City Scan, Satara. In City Scan it was found that, his skull was fractured.

Then he was shifted to Girija Hospital. Nothing elicited in his cross-examination. To prove the disability the Claimant has examined PW-2 Dr.Sunil Yadav, at Exhibit-42. He has stated that the Claimant was admitted in his hospital. He was brought to his hospital from Civil Hospital. He was unconscious and serious. His City Scan was done. In City Scan it was found that, the Claimant was having fracture of skull and large subdural haemotomo on right side. He was operated on emergency basis and that blood clot was removed. Fracture portion of skull bone was also removed. At present, it does not have protection to his brain. The Claimant was unconscious for 10 days. The Claimant was attending the hospital for regular followup for four months, thereafter, also he came for regular follow-up. Because of skull defect the Claimant has 10% permanent physical disability. The Certificate is at Exhibit-46. In cross-examination this witness admitted that after removing blood clot patient became normal after two to three months and skull bone removal cannot be developed. Deformity can be reduced by cosmetic surgery. Considering the evidence on record the Tribunal has awarded

compensation of Rs.2,44,902/- under various heads. In my view it is on lower side. The Tribunal has awarded Rs.10,000/- for pain and suffering and mental agonies, it should be Rs.50,000/-. The Tribunal has awarded Rs.5,000/- for special diet and convenience, it should be Rs.30,000/-, for attendance Rs.30,000/-. Considering the brain injury and there is no portion of part of skull, I am considering Rs.2,50,000/- for future medical expenses. The Tribunal has not awarded the amount for inevitable expectations, I am considering it at Rs.50,000/-.

6. In view of above I pass following order.

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimant is entitled for Rs.4,10,000/- @ 7.5% per annum from date of the filing of the Claim Petition till realization of the amount.
- (iii) The Respondent-Insurance Company shall deposit the enhanced amount before the Tribunal along with accrued interest thereon within 6 weeks after receipt of this order.

(iv) The Claimant is permitted to withdraw the deposited amount alongwith interest.

(v) All pending Civil/Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)