

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 1310 OF 2019

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Nilesh Dashrath Bambardekar -)
 Age: 39 years, Occ: Business,)
 R/o: Vetral Bambarde, Taluka Kudal,)
 District: Sindhudurg- 416520)....Appellant
 (Orig. Claimant/Petitioner)

Versus

1. Sandesh Ramakant Kubal)
 Age: 50 years, Occ: Service,)
 R/o. Parab-wada, Vengurla,)
 Taluka Vengurla, District: Sindhudurg)

 2. National Insurance Co. Ltd.)
 205/B, "E" Ward, Cosmos)
 Commercial Complex, New Shahaputi,)
 Kolhapur.)....Respondents
 (Orig. Opponents)

Mr. Amey C. Sawant a/w Mr. V. V. Tapkir, Advocate for the
 Appellant.
 Ms. Shalini Shankar, Advocate for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 16th APRIL, 2024.

Oral Judgment. :

1. By way of this appeal, Appellant/Claimant is seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellant/Claimant that due to accidental injuries the Claimant has suffered 20% permanent physical disability. Due to disability, the Claimant is unable to do any work his functional disability is 100%. He has suffered fracture to proximal third left humerus but the Tribunal has not considered this fact and has awarded Rs.3,01,600/- as compensation and Rs.1,01,600/- for medical expenses, which are on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.2/Insurance Company that while passing order, the Tribunal has considered all the aspects hence, no interference is required in it.

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

5. Due to accidental injuries, the Claimant has suffered 20%

permanent physical disability. The disability of the Claimant has not been challenged. It appears from record that the Claimant was admitted in the hospital for couple of days and he was operated for the injury. Due to disability he is unable to do any work, his functional disability is more than 50%. The Tribunal has awarded Rs.2,00,000/- lumpsum amount for pain and suffering, mental shock, agony, loss of amenities, diet, nutrition and attendant charges. In my view, it is on lower side. As, Claimant was admitted in the hospital for couple of days and he has suffered 20% permanent disability, after accident he is unable to do his work, his functional disability is more than 50% hence, I am considering Rs.30,000/- for pain and suffering and Rs.50,000/- for loss of amenities in life and Rs.30,000/- for special diet and conveyance and Rs.50,000/- for loss of expectation of life and Rs.20,000/- for attendant charges, total comes to Rs.1,80,000/-.

6. In view of above, I pass following order.

ORDER

- i. Appeal is allowed.
- ii. The Claimant is entitled for enhanced amount of Rs.1,80,000/- @ 7.5% interest per annum from the

date of filing claim petition till realisation of the amount.

- iii. The Respondent No.2/Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within six week after receipt of the order.
 - iv. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - v. The Claimant shall pay deficit Court fees on enhanced amount, as per Rule.
7. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)