

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1702 OF 2010

	United India Insurance Company Limited Motor Third Party Hub Union Cooperative Insurance Building 5 th Floor, 23 Sir P.M.Road, Fort, Mumbai – 400 001	)))))	(Original Opponent No.2) Appellant
	versus		
1	Nishant Mitrasen Mahimtura Aged about : 48 years Residing at : Chandan-62 B, Peddar Road, Dr. G. Deshmukh Marg, Bombay- 400 026	)))))	(Original Applicant)
2	Shri Shahanzwaz Y. Rias A/P, Manor, Tal : Palghar, Dist :Thane Owner of M/s Lorry No.MH-04-C-2472	))))	(Original Opposite Party No.1) Respondents

Mr. Rahul Mehta i/b. KMC Legal Venture, Advocates for the Appellant.
Mr. T. J. Mendon, Advocate for the Respondent.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd JANUARY, 2024.

Oral Judgment :

1. The issue involved in this appeal is that the Tribunal has awarded compensation on higher side.
2. It is contention of learned counsel for the appellant that Tribunal has awarded compensation of Rs.20,0000/- for loss of amenities in life

and Rs.5,30,400/- for disability, which is on higher side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent/claimant that due to accidental injuries, the claimant has suffered 17% disability. It is proved by the Doctor. Due to the disability, the claimant has suffered shortening of right leg, stiffness in right ankle and he is not able to squat. The claimant has developed arthritis. The claimant was earning Rs.2,40,000/- per annum and, on that basis, the Tribunal has awarded compensation, which is proper.

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

5. Admittedly, the claimant has suffered 17% disability due to accidental injuries. To prove the disability of the claimant, the claimant has examined Dr. Umralkar, he has stated that he had assessed the disability of the claimant for shortening of right leg at 5%, stiffness of right ankle at 2%, inability to squat at 2% and inability to sit at 2%. He has further stated that the applicant was unable to sit as he has developed arthritis. The applicant was businessman and the Tribunal has considered his annual income at Rs.2,40,000/-. Considering the income and applying multiplier, the Tribunal has awarded Rs.5,30,400/- for disability. I do not find infirmity in it.

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

ORDER

1. The appeal is dismissed. No order as to cost.
 2. The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
 - 3 The statutory amount be transferred to the Tribunal along with accrued interest thereon. The parties are at liberty to withdraw it as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)