

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
FIRST APPEAL NO. 297 OF 2018

United India Insurance Company Limited	)	
Motor Thrid Party Claims Hub	)	
5 th Floor, Union Cooperative Insurance Building	)	
Sir, P. M. Road, Fort	)	
Mumbai-400 001	)....Appellant/	
	Orig. Insurer	

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Versus

1. Shri. Mahendra Haribhau Gole	)	
Age: 34 years, Occ: Worker	)	
R/at AL 5/ 40/ 13, Visava Apt	)	
Sect- 17, CIDCO, Airoli	)	
Navi Mumbai	)Original	
	Applicant	
2. Madhavi Logistics	)	
Office at lakhraja, HS 22, Sector No.7	)	
Sanpada, Navi Mumbai	)	
(Owner of Truck No. MH-43-E-4323)	)....Orig. Opp.	
	No.1	
	Respondents	

Mr. Rahul Mehta /b KMC Legal Venture, Advocate for the Appellant.
 Ms. Sushma Poyekar, Advocate for the Respondents.

CORAM : SHIVKUMAR DIGE, J.

DATE : 15th JANUARY, 2024.

Oral Judgment. :

1. The issue involved in this appeal is disability of the claimant is considered on higher side.

2. It is contention of learned counsel for the Appellant that the Tribunal has considered 33% physical permanent disability of the Claimant, without any evidence on record, which is on higher side and on that basis, compensation is awarded, which is not proper. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondents/Claimants that Claimant has suffered 36% permanent physical disability due to accidental injuries. To prove the disability, the Claimant has examined doctor and on that basis the tribunal has considered the disability of the Claimant, which is proper and no interference is required in it.

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

5. It is claimant's case that due to accidental injuries the Claimant has suffered 36% permanent physical disability. To prove

the disability, the claimant has examined Dr. Rananaware, he has stated that Claimant has suffered 33% disability. Considering the evidence on record, the Tribunal has considered disability of the Claimant at 33%, I do not find infirmity in it. Appeal is devoid of merit and, 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.
 - ii. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
6. All pending applications stand disposed of.

(SHIVKUMAR DIGE, J.)