

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

FIRST APPEAL NO. 2468 OF 2011

Asha Suryabhan Gaikwad)
 Age:- 56 years, Indian Inhabitant,)
 Occupation:- Housewife,)
 R/o. Sambhaji Nagar, behind Ketaki)
 Society, S. No. 265/1, Plot No.21,)
 Mhasrul, Nashik 4)....Appellant
 (Org. Claimant)

Versus

1. Sunil Nanasaheb Sandhan)
 Age: 35 years, Indian Inhabitant)
 Occupation:- Rickshaw Driver)
 R/o: Prabhat Nagar, Shri Ganesh)
 Niwas, Near Water Reservoir)
 At and post Mhasrul, Nashik 4)
2. Vatsalabai Shankar Vispute)
 Age: 45 years, Indian Inhabitant,)
 Occupation:- Business,)
 R/o:- Solar, Dindori Road,)
 Panchavati, Nashik)
3. New India Assurance Company)
 Limited)
 First Floor, Gurunanak House,)
 Mumbai – Agra Road, Nashik 1)....Respondents
 (Org. Opponents)

Mr. Saurabh M. Raikar a/w Ms. Ms. Devashri G. Karandikar, Advocate
 for the Appellant.

Ms. Poonam Mital, Advocate for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th FEBRUARY, 2024.

Oral Judgment. :

1. By this appeal, the claimant is seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellant/Claimant that the Claimant has suffered 15% disability due to accidental injuries but, the Tribunal has awarded Rs.25,000/- as compensation, which is on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.3/Insurance Company that injuries caused to the Claimant were simple in nature, no disability certificate was proved through doctor. The compensation amount awarded by the Tribunal 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, Nashik (for short "the Tribunal").

5. It is Claimant's case that due to accidental injuries she has suffered 15% permanent physical disability but, to prove the disability the concerned doctor has not been examined. The injury certificate of claimant which is at Exhibit-23 shows the following injuries;

- i. CLW in mouth right side.
- ii. Contusion below left eye.
- iii. Contusion and swelling with abrasion on both lips.
- iv. Abrasion on right cheek.
- v. Swelling and tenderness of left knee joint.
- vi. Dental injury lower incisor and lateral.
- Vii. Abrasion right palm
- viii. Tenderness of left foot fingers.

6. While dealing with the issue of the disability, the Tribunal has observed that a bare perusal of injury certificate shows that all injuries are simple in nature. Exhibit-31 injury certificate issued by Dr. Sope shows that the Claimant was operated upon, for some dental problem and there was root canal done except these, there is nothing on record to show that the injuries have resulted into permanent disablement, on that basis, the Tribunal has passed the order. I do not find infirmity in it. In my view, considering the injuries mentioned in the injury certificate, no permanent disability is caused to the claimant. Moreover, doctor was not examined to prove the disability.

Considering the nature of injuries and the evidence produced on record, I am considering to Rs.5,000 enhancement to the claimant.

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

ORDER

- i. Appeal is partly allowed.
 - ii. The Claimant is entitled for enhanced amount of Rs.5,000/- @ 7.5% interest per annum from the date of filing claim petition, till realisation of the amount.
 - iii. The Respondent/Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipt of the order.
 - iv. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
8. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)