



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 FIRST APPEAL NO. 846 OF 2004

Dnyaneshwar Narhari Vedpathak

VERSUS

Mallu Bhagwan Koli And Ors

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Mr. S S Halkude, Advocate for Appellant.

Mr. A. B. Kadethankar, Advocate for Respondent No.3.

Mr. S. R. Bodade, Advocate for Respondent No.6.

CORAM : KISHORE C. SANT, J.

DATE : 4th AUGUST 2025.

PC :-

1. After hearing the parties, the Court has taken up the appeal for final disposal.
2. The dispute is in a narrow compass. The appellant, 25 years of age at the time of accident i.e. on 8th October 2001, suffered 80% disability to his left hand, has approached this Court. The appellant was traveling in a luxury bus bearing Registration No. MH-12-FA-647. It was dashed by goods truck bearing Registration No. MH-04-AL-4804. The appellant

received an accidental injury. He was admitted to the Rural Hospital, Indapur for primary treatment, and thereafter, shifted to the Civil Hospital at Latur. He was then taken to a private hospital i.e. Sangmeshwar Hospital, Latur, where he was treated till 20th November 2001.

3. The appellant filed Motor Accident Claim Petition bearing No. 511 of 2001 in the Court of learned MACT, Latur. The said claim came to be decided by a judgment and award dated 10th December 2003 by awarding an amount of Rs. 80,000/- in lump sum.

4. It is the case of the appellant that the Court has not awarded the amount under different heads. The appellant was working as an electrical engineer and was earning Rs.5,000/- per month. Though the injury suffered shows 80% disability, because of the injury, he has lost 100% earning capacity. The Court has failed to consider the same. The appellant was required to undergo orthopedic surgery twice. It is his case that all these expenses are not considered by the tribunal. The

special diet expenses are not considered. The charges of attendant are not considered. The Court has also not properly considered the multiplier. He thus prays that the amount ought to have been Rs.13,49,000/- considering all these factors.

5. Learned Advocate Mr. Kadethankar and Mr. Bodade, on the other hand, strenuously opposed the appeal. They submit that the appellant has failed to prove his loss of earning capacity. The Court has rightly considered a notional income of Rs.3,000/- per month, as prevailing in 2001. They fairly submit that the learned Tribunal should have granted an amount by making different heads. No such exercise is done and lump sum compensation is granted. They further submit that, however, entitlement of the appellant, at the most, would be of Rs. 1,10,000/- and not more than that, considering that the disability is only to the extent of 80%. They therefore pray for rejection of the appeal.

6. The learned Advocate for the appellant relied upon the judgment in the case of *Rajan Vs. Soly Sebastian and Anr.*¹ and *R. D. Hattangadi*

¹ (2015) 10 SCC 506

Vs. Pest Control (India) Pvt. Ltd.²

7. Both these judgments have considered have been considered while deciding the amount of award in the cases where a person acquires total disability. Without going into much detail, this Court finds that the Tribunal has rightly considered the income to be Rs.3,000/- per month in 2001. No perversity is pointed out in considering the monthly income to be Rs.3,000/-. It is true that the amount is not granted under specific heads. During the course of argument, it has come that the matter was tried to be settled before the lok adalat, where the insurance company had offered Rs.1,10,000/-. The appellant, however, insisted for Rs. 2,00,000/-. This Court thus finds that both the parties are agreeable to the proposal of settlement, however, there is some disagreement about the income.

8. This Court finds that instead of going into all the details, it would be appropriate to grant total compensation of Rs.1,25,000/-. Rs.80,000/- is already awarded. The amount of Rs.45,000/- alongwith

² (1995) 1 SCC 551

interest be paid to the appellant within a period of eight weeks from today. However, the appellant shall not be entitled to receive interest on the enhanced amount for the delayed period which was caused while filing the first appeal.

9. The amount is to be paid by both the insurance companies in equal proportion. The amount to be deposited in the office of this Court. The claimant-appellant shall be entitled to withdraw the amount without making any application.

10. With this, first appeal stands disposed off.

[KISHORE C. SANT, J.]