



(1)

957-FA-865-2004

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

957 FIRST APPEAL NO. 865 OF 2004

Mohamad Shafi Haji Sultan

VERSUS

Bajirao Apparao Arbane (died) Thr Lrs. Raghunath Bajirao Arbane And
Anr.

...

Mr. M. K. Deshpande, Advocate for Appellant.

Mr. Vilas P. Savant Advocate for R/1a & 1b.

Ms. Bharti B. Gunjal, Advocate for Respondent No.2.

Mr. Sudhir V. Kulkarni, Advocate for Respondent No.3.

CORAM : KISHORE C. SANT, J.

DATE : 11th SEPTEMBER 2025.

PC :-

1. Heard the parties.
2. This appeal is filed by original claimant in an injury claim for enhancement in the amount of compensation awarded by the learned Member, Motor Accident Claims Tribunal Beed, in MACP No. 370 of 1998 dated 28th October 2003.
3. The learned Tribunal, by way of impugned judgment and award, granted compensation of Rs.77,736/-, inclusive of amount under "no

Ethape

fault liability” under Section 140 of the Motor Vehicles Act.

4. The learned Advocate for the claimant Mr. Deshpande vehemently submits that the learned Member of the Tribunal has granted very meager amount towards compensation when the claimant had received an injury and was disabled to the extent of 75%. He submits that, though the medical bills were produced showing that the claimant was required to pay Rs.1,09,338/-, still the amount awarded towards medical expenses is only Rs.53,736/-. The trial court did not consider the disability as 75% but considered it only to be 14%. He submits that the claim ought to have been allowed in *toto* by awarding compensation of Rs.3 lakhs which would proper and sufficient compensation. He prays for modification of the award and to increase the compensation amount to Rs. 3 lakhs.

5. Learned Advocate Mr. Kulkarni for the respondent-insurance company, vehemently opposed the appeal. He submits that the learned Member has rightly considered that the disability of 75% was only temporary, and this is clear from the certificate produced by the claimant

himself. The learned Tribunal has rightly considered the disability to the extent of 14% on the basis of another certificate produced by the claimant himself. He submits that the claimant is in service and therefore there is no question of suffering any financial loss. At the most, he was entitled to pain and suffering. The court has thus rightly considered pain and suffering and has granted Rs.15,000/-, which is correct. So far as medical bills are concerned, he submits that the court has rightly considered only the bills which are admissible. He prays for dismissal of the appeal.

6. The learned Advocate Ms. Gunjal for Respondent No.2-Driver and Mr. Sawant, the Advocate for Respondent Nos. 1A to 1B Owner, adopt the argument of learned Advocate Mr. Kulkarni.

7. This Court has gone through the judgment and award and considered the submissions. This court has to mainly see as to whether the appellant has suffered any financial loss. As rightly submitted, the claimant is in service and he has not suffered any financial loss as such. So far as medical bills are concerned, it is seen that Exh.37 to Exh.104

which were produced and duly proved, are the bills towards medical expenses. This Court finds that the Tribunal ought to have granted the entire amount as per the medical bills, which comes to Rs.1,09,338/-. Towards pain and suffering, this Court finds that the amount of Rs.15,000/- is too meager amount considering the date of accident. It is also needs to be seen that he has to suffer the pain and suffering throughout his life. When the accident took place, he was only 45 years of age. It is seen that minus the amount already granted by the tribunal i.e. Rs.77,486/-.

8. Considering his life expectancy, he is expected to live around 40 to 50 years after accident. Certainly the pain and suffering would be for his lifetime. This court, therefore, deems it fit that the proper amount of compensation would have been as below.

Rs.50,000/- towards pain and suffering.

Rs.1,09,338/- towards medical expenses.

Total Rs. 1,59,338/-.

9. The amount already granted needs to be deducted. The appellant

would be entitled to receive the amount of Rs.1,59,338/-. Hence, the following order.

ORDER

- (i) The appeal is partly allowed.
- (ii) The respondent shall jointly and severally pay to the claimant an amount of Rs.1,59,338/-, with interest @ 9% from the date of filing of the claim till the judgment of the tribunal, and @ 6% on the enhanced amount from the date of judgment of tribunal till realization of the amount.
- (iii) The amount shall be deposited within 8 weeks from today in the office of this Court.
- (iv) The claimant/appellant shall be entitled to withdraw the said amount without requiring any formal application.
- (v) With this, First Appeal stands disposed off.

[KISHORE C. SANT, J.]