



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

947 CIVIL APPLICATION NO. 3372 OF 2019
IN FA/290/2007

SANJAY ASAMAN PHALKE

VERSUS

S R SETHI AND ANR

....

Mr. P. M. Kulkarni, Advocate for the Applicant

Mr. U. S. Malte, Advocate for Respondent No.2

....

CORAM : Y. G. KHOBRAGADE, J.

DATE : 07.03.2025

PER COURT :-

1. Heard Mr. Kulkarni, the learned counsel for the Applicant and Mr. U. S. Malte, the learned counsel for non-applicant No.2 Insurance Company, at length. None present for non-applicant No.1.

2. By the present Application, the Applicant/claimant prayed for permission to lead/production of additional evidence in respect of his 60% disability of earning due to amputation below the knee to his right let.

3. The learned counsel for the Applicant canvassed that the present Applicant was serving with the Indian Army and he

was compulsorily retired on account of discharge of his official duty due to disability caused in the accident occurred on 28.03.2000. After conclusion of the trial, on 28.12.2006, the learned Member, M.A.C.T., Ahmednagar passed the judgment and award in M.A.C.P No.201 of 2001 and awarded very meager amount of compensation of Rs.2,31,000/- inclusive N.F.L., with interest at the rate of 9% p.a. from the date of filing of the claim petition till its realization. However, during the pendency of the present appeal, the Commanding Officer, 116 Engineer Regiment, issued a certificate, showing that the Applicant/claimant sustained accidental injury and his legs amputated below the knee.

4. The Applicant has not brought on record that he was aware about amputation of his legs below the knee when he entered into witness box and prior to passing the judgment and award. Therefore, to my mind, it is not an additional evidence falls within the ambit of Rule 27 of Order 41 of C.P.C. Therefore, the Civil Application is dismissed.

[Y. G. KHOBRADE, J.]

SMS