



{1}

19 sr.no..odt

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO. 946 OF 2024

Janabai Rangnath Doiphode,
Age 50 years, Occ. Labour work,
R/o. Kamgar Colony Chikalthana,
Aurangabad.

.. Appellant.

VERSUS

1] Sandip Laxman Mule,
Age : 50, Occ. Driver,
R/o. Georai Paithan Road,
Aurangabad.

2] Laxman Damodhar Mule,
Age 50 years, Occ. Business,
R/o. Georai Paithan Road,
Aurangabad.

3] New India Assurance Company Ltd.,
Adalat Road, Aurangabad,
Dist. Aurangabad.

.. Respondents.

Ms. Mangal R. Chavan, Advocate for appellant
Mr. M.M. Ambhore, Advocate for respondent No.3.
Mr. Aadil A. Shaikh, Advocate h/f. mr. R.V. Gore, Advocate for respondent
No.2

CORAM : S.G. CHAPALGAONKAR, J.

DATE : 18th FEBRUARY, 2025.

ORAL JUDGMENT :-

1] Appellant/claimant had instituted Motor Accidents Claim Petition No. 34 of 2020 before the Motor Accidents Claim Tribunal, Aurangabad seeking compensation towards accidental injuries and permanent disablement suffered by her in a motor vehicular accident dated 11.9.2019. The contention of the claimant is that, while she was travelling in the auto-rickshaw, the offending tractor gave dash to rickshaw. As a result of accident, she suffered injuries and consequential permanent disablement.

2. The claimant relied upon the evidence of PW-2 Dr. Jaiswal to prove the permanent disablement. The Doctor certified that she suffered permanent disablement to the extent of 30% owing to grievous injuries to spinal cord. The evidence of the Doctor is not shattered during the cross-examination.

3. The Tribunal considered her notional income @ Rs. 6,000/- p.m. and granted compensation towards permanent disablement commensurate to loss of earning capacity. In addition, the Tribunal granted compensation towards medical bills, pains and suffering.

4. The learned advocate for appellant submits that the Tribunal could have considered notional income of claimant @ Rs. 8,000/- p.m. commensurate to minimum wages as applicable. She would further submit that Tribunal granted nothing towards permanent disablement which is now recognized as an independent head for grant of compensation.

5. Mr. Ambhore, learned advocate for respondent submits that Tribunal granted compensation on all possible heads in tune with evidence tendered by claimant. Therefore, he urges to dismiss the appeal and maintain award as passed by Tribunal.

6. Having considered submissions advanced, it can be observed that accident occurred in the year 2014. The claimant could not place on record any evidence depicting her actual income at the time of accident. Although, it is argued that applicable minimum wages can be considered as guiding factor, no notification issued under Minimum Wages Act that could govern case of claimant, is brought on record. Therefore, no fault can be found with the approach of the Tribunal in considering her notional income @ Rs. 6,000/- p.m.

7. Second contention raised on behalf of appellant is that, separate compensation towards permanent disablement is not granted. It is trite that permanent disablement itself is recognized as an independent head for grant of compensation. Perusal of the judgment of Tribunal shows that although compensation towards pain and suffering @ Rs. 20,000/- has been granted, no independent compensation towards permanent disablement is granted. Since claimant suffered injury to spinal cord resulting into 30% permanent disability, looking to the overall conspectus of the evidence tendered, claimant would be entitled to receive an amount of Rs. 30,000/- under head of permanent disability. In that view of the matter, appeal deserves to be partly allowed as under.

O R D E R

- [I] First appeal is partly allowed.
- [II] Claimant is held entitled for an additional compensation of Rs. 30,000/- alongwith interest @ 6% p.a. from the date of filing claim petition.
- [III] Rest of the award passed by the Tribunal is maintained as it is.

8. First appeal stands disposed of accordingly.

[S.G. CHAPALGAONKAR, J]

grt/-