

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****FIRST APPEAL NO. 2058 OF 2005**

Shri. Ramswaroop Golulji Lot
Age 55 years, Occu. Service
R/o. C.P.R. Hospital Quarters
Kolhapur, District Kolhapur

... Appellant

Versus

- 1 Shri. Chandrakant Baburao Mirajkar
Age 58 years, Occu. Govt. Contractor
R/o. Sangli Vishrambag Govt. Colony, Sangli
- 2 The New India Insurance Co. Ltd.
Divisional Office near Parwati Talkies, Kolhapur
Policy No. 31-151001-06989
Policy period 7.6.2000 to 6.6.2001

... Respondents

.....

Mr. S. G. Thorat, Advocate for the Appellant.

Ms. D. Shalini Shankar, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATED : 28th JANUARY, 2025.

ORAL JUDGMENT :

1. By this appeal the appellant is seeking enhancement of compensation.

2. It is contention of learned counsel for the appellant that due to accidental injuries the appellant has suffered 40% permanent physical disability, his left hip was fractured and he was admitted in hospital for couple of days. The Tribunal has awarded compensation of Rs.25,000/- under no fault liability and has held that the appellant continued in his

service after the accident on that ground the Tribunal has not awarded compensation to appellant/claimant, hence requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.2- Insurance company that appellant had suffered fractured injury to his left hip. The appellant was sweeper in C.P.R. hospital at Kolhapur. After the accident, he continued in his service. The Tribunal while passing the order has observed that after the accident he continued in his service, so there is no monetary loss to the appellant. Learned counsel further submitted that the Tribunal has passed well reasoned order, no interference is required in it and requested to dismiss the appeal.

4. I have heard both the learned counsel. Perused Judgment and Order passed by Motor Accident Claims Tribunal, Kolhapur (for short “the Tribunal”). While passing the order, the Tribunal has observed that due to accidental injuries the appellant has suffered fracture injury and thereafter appellant continued in service and he retired on superannuation, so there is no monetary loss to the appellant on that ground the Tribunal has awarded compensation entitled under no fault liability. I am unable to understand the observations of the Tribunal as to prove the disability, the appellant has examined DW-2 Abhijit Deodhar. He has stated that he has treated the appellant and appellant had suffered left hip fracture and issued the disability certificate of 40%. The appellant admitted in hospital

for couple of days. Due to accidental injuries/disability there is restrictions on the movement of the appellant. The appellant had filed claim petition for Rs.1 lakh. Considering the 40% disability of the appellant and the Tribunal has not awarded any amount for pain and suffering, attendant, special diet, loss of enjoyment in life and medical expenses, I am considering that the appellant is entitled for the amount which he has claimed i.e. Rs.1 lakh. The appellant has received amount of Rs.25,000/- from the respondent No.2- Insurance Company, hence he is entitled for remaining Rs.75,000/- and I pass following order.

ORDER

- i. The appeal is allowed.
- ii. The appellant/claimant is entitled for enhanced amount of Rs.75,000/- interest @7.5% p.a. from the date of filing claim petition till realisation of the amount.
- iii. The respondent No.2 -Insurance Company shall deposit the enhanced amount along with accrued interest within six weeks after receipt of the order.
- iv. The appellant / claimant is permitted to withdraw the enhanced amount deposited by the respondent No.2

Insurance Company along with accrued interest thereon.

v. The statutory amount be transmitted to the Tribunal.

The parties are at liberty to withdraw it as per rule.

vi. The appellant / claimant shall pay deficit Court fees on enhanced amount as per rule.

vii. R & P be sent back to the Tribunal.

viii. Pending applications, if any, also disposed of.

5. The appeal is disposed of.

(SHIVKUMAR DIGE, J.)

SONALI
SATISH
KILAJE

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by SONALI
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