

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.1367/2019

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr. P.M. Palshikar for the Appellant.
Mr. Sunil P. Patil for Respondent No.1.

CORAM: K.K.TATED, J.
DATED : SEPTEMBER 30, 2019

P.C.

1 Heard. By this First Appeal, the Appellant challenges the judgment and award dated dated 26.10.2016 passed by the Employees Insurance Court, Nasik in application (ESI) No.03/2014 holding that Respondent No.1 is entitled to benefits with interest as per ESI Act and ESI Scheme framed thereunder for the period of 29.06.1999 to 15.01.2010 on the basis of 40% disablement and thereafter on the basis of 100% disablement for the employment injury sustained by him in the course of and arising out of employment on 29.06.1999.

2 The learned counsel for the Appellant submits that in the present proceedings the Respondent No.1 had examined Dr.Sharad Patil of Sudhil Eye

Hospital at Exhibit-U19 who has specifically stated that Respondent No.1 sustained 40% permanent disability. In spite of that the ESI Court held that after 16.01.2010 the Respondent No.1 is entitled to disablement benefits towards 100% disability. Hence, the First Appeal.

3 Considering the submissions made by the learned counsel for the Appellant and the impugned judgment and award, I am satisfied that the Appellant has made out a case for following order:

a. **Admit**, on the following substantial question of law:

“Whether the Respondent / claimant is entitled to declaration of 100% disablement benefits with interest as per the ESI Act from 16.01.2010 onwards.”

b. The Appellant is directed to file private paper book within one year from today with copy to other side, failing which the First Appeal shall stand dismissed without further reference to the court.

c. Printing dispensed with.

d. Call R & P.

(K.K.TATED, J.)