

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3976 of 2001

Hon'ble MR.JUSTICE Y.B.BHATT

and

Hon'ble MR.JUSTICE M.H.KADRI

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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ORIENTAL INSURANCE CO. LTD.

Versus

RANABHAI JIVABHAI C/O MH MEHTA

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Appearance:

MS AVANI S MEHTA for Appellant

MR HM PRACHCHHAK for Respondent no.1

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CORAM : MR.JUSTICE Y.B.BHATT  
and  
MR.JUSTICE M.H.KADRI

Date of decision: 27/02/2002

ORAL JUDGEMENT

1. Heard the learned counsel for the appellant and learned counsel for respondent no.1-original claimant. Appeal admitted. Mr. HM Prachchhak appears for respondent no.1-original claimant and waives service of notice in the appeal.

2. On a joint request of learned counsel, this appeal is taken up for final hearing today.

3. This is an appeal under section 30 of the Workmen's Compensation Act at the instance of the Insurance Company, challenging the judgement and award passed by the Commissioner for Workmen's Compensation (Non-fatal) Application No.103/93.

4. The Commissioner has, on a total appreciation of the evidence on record, determined that the first respondent-original applicant would be entitled to an aggregate compensation in the sum of Rs.1,04,960/- with interest at the rate of 6% per annum from the date of the accident till realisation.

5. The main point raised in the present appeal by the appellant Insurance Company is that the disability determined by the Tribunal at hundred percent is grossly erroneous, opposed to the evidence on record and, in any case, disability to this extent cannot be awarded to an injured whose only injury is a fracture and crushing injury of only one leg.

6. We have heard the learned counsel for the respective parties and have also referred to such evidentiary material on record to which our attention has been drawn. As a result of this exercise a consensus has been arrived at between the learned counsel on the basis of which it was stated that the Court may determine the aggregate amount of compensation payable to the first respondent-injured without the necessity of giving reasons.

7. Accordingly we have applied our mind to the facts of the case and the submissions of the learned counsel and we hold and direct that the first respondent-original claimant shall be entitled to compensation in the aggregate sum of Rs.75,000/-. We hold and direct accordingly.

8. It is clarified that the impugned judgement and award is modified only to the aforesaid extent and the

rest of the award stands confirmed.

9. Consequently the present appeal is partly allowed with no order as to costs. Decree accordingly. Direct service permitted.

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