



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 1134 OF 2024

Ramdas Nagu Sangle

VERSUS

Momin Mohammad Jainoddin And Another

...

Advocate for Appellant : Mr. Kute Rajendra L.

Respondent no.1 – served.

Advocate for Respondent 2 : Mr. Amar D. Soman

...

CORAM : S. G. CHAPALGAONKAR, J.

Dated : March 24, 2025

FINAL ORDER :-

1. The appellant/original claimant filed present appeal being aggrieved by the judgment and award dated 15.2.2023 passed by the District Judge – 2, Sangamner in MACP no.69 of 2013. (Parties hereinafter are referred to as per their original status).

2. On 11.12.2012 claimant suffered injuries in an accident between his motorcycle and offending jeep bearing registration no.MH-17/T-4296. He suffered fracture of both hands and legs with spinal cord injury. He was treated at various hospitals and undergone multiple surgeries. However, could not be completely recovered. At the time of accident, he was employed as P.S.I. He was on leave without pay for 923 days. Now, his regular work is hampered due to spinal cord injuries, implants in legs and hands. Lastly, he joined duty just before his retirement, however, at the time of retirement his

salary is considered on the post of Assistant Sub-Inspector of Police. As such, he suffered permanent reduction of income and pensionary benefits. Claimant filed M.A.C.P No.69 of 2013 before the M.A.C.T. at Sangamner raising claim for compensation under the provisions of Section 166 of the Motor Vehicles Act. Tribunal partly allowed the claim and awarded Rs.9,48,000/- alongwith interest @ 8% p.a. from the date of accident.

3. Mr. Kute, learned advocate appearing for the appellant submits that the Tribunal has passed grossly inadequate award. Claimant could not attend his duty for 31 months and suffered loss of salary for that period. However, Tribunal considered loss of salary only for 24 months. Although, claimant suffered 25% permanent disablement, no compensation is granted towards permanent disablement. The claimant requires future medical treatment, particularly for removal of implant. Certificate of Doctor is placed at Exhibit 75, but no compensation is awarded on that count. Claimant needs to be compensated for attendant charges, pain and sufferings, loss of amenities in life. Mr. Kute would further submit that claimant was reverted to the post of ASI from PSI and his pension is fixed on that post, which is a permanent loss but no compensation is awarded on that count also.

4. Mr. Soman, learned advocate appearing for respondent no.2 justified the award. He submits that although, claimant suffered permanent disablement of 25%, there is no loss of earning. The Tribunal has already reimbursed loss of

salary for 24 months. Claimant has received reimbursement of medical bills from his employer. Balance of expenditure of Rs.70,000/- is considered by the Tribunal. The compensation is awarded for all possible heads and there is no scope for further enhancement.

5. Having considered the submissions advanced, it can be observed that present appeal raises exception to the assessment of compensation. According to the claimant, Tribunal failed to grant compensation against possible heads which are approved by judicial pronouncement. Quantification of the compensation is inadequate.

6. Undisputedly, claimant was in service under the State of Maharashtra as a Police officer. Document at Exhibit-187 shows that claimant was on leave from 12.12.2012 to 19.6.2015. The particulars of leave are as under :-

अ. नं.	पदनाम	पोलीस कर्मचारी यांचे नांव व हुद्दा	नेमणूक	सिक कालावधी		एकूण	निर्णय
				पासून	पर्यंत		
१	२	३	४	५	६	७	१०
१	सफौ	रामदास नागुजी सांगळे	कोपरगांव ता	.12/12/2012	.15/03/2013	95	परावर्तीत रजा
२	सफौ	रामदास नागुजी सांगळे	कोपरगांव ता	.16/03/2013	.9/1/2014	300	अर्जित रजा
३	सफौ	रामदास नागुजी सांगळे	कोपरगांव ता	.10/01/2014	.19/6/2015	528	विनावेतन रजा

7. Tribunal granted compensation towards loss of salary for the period from December 2012 to November, 2014

i.e. 24 months which is quantified @ Rs.34,000/- p.m. In fact, if the claimant was required to take leave for 927 days, there is no reason for compensating him for 24 months only. Tribunal has not given any reason as to why compensation for salary is restricted to 24 months as against leave of 31 months. This Court finds that claimant is entitled for compensation towards loss of salary for 31 months. It is trite that when employee suffers loss of earned leave due to his medical treatment in deference to the motor vehicular accident, he would be entitled for reimbursement of all such loss although his earned leave is adjusted by employer for those days.

8. This Court in case of **Yogesh Chandrakant Joshi Vs. Kavita Sanjay Veer and others in First Appeal No.679 of 2016** observed that although earned leave is exhausted by the employee due to accidental injuries, he is entitled for reimbursement of the same from the respondents. Therefore, this Court is inclined to grant benefit of loss of salary for 31 months.

9. Medical evidence shows that claimant has suffered 25% permanent disablement. The Supreme Court of India in case of **Raj Kumar Vs. Ajay Kumar & another reported in (2011) 1 SCC 323 observed** held that permanent disablement itself is an independent head for grant of compensation. Looking to the nature of injuries suffered by claimant i.e. multiple fractures with injury to spinal cord, it would be proper to grant compensation of Rs.2.00 Lakh under the head of permanent disablement. Claimant was under medical

supervision for more than two years and undergone multiple surgeries. Therefore, he is entitled for compensation of Rs.1.00 Lakh towards pain and suffering. Long standing hospitalization of the claimant could not have been possible without able assistance of attendant. Therefore, the claimant needs to be awarded compensation of Rs.50,000/- towards attendant charges for the period of hospitalization and medical consultation. Since claimant was in employment, he has not suffered loss of future earning. Even after retirement, he is receiving pension.

10. Mr. Kute endeavors to contend that claimant has suffered loss of Grade Pay from Rs.4,300/- to Rs.2,800/-. In support of his contentions, he relies upon summary of his pay scale which shows that on 1.7.2012, he was getting Grade Pay of Rs.4,300/- and it was brought down to Rs.2,800/- on 10.1.2013. However, from the aforesaid documents, it can be observed that there is no acceptable evidence to conclude that deduction in grade pay was as a result of the accidental injuries. His salary as on date of retirement on 30.5.2015 appears to have been fixed in the Grade Pay of Rs.4,300/-. Therefore, the claimant could not prove loss of salary or pension on account of accidental injuries.

11. Mr. Kute learned advocate submits that the claimant has suffered loss of Earned Leave and commutation leave and relies upon document at Exhibit 187. Apparently, claimant is already held entitle for loss of salary of 927 days of leave towards hospitalization and medical treatment.

Therefore, separate compensation towards loss of leave would not be admissible. In the result, compensation needs to be re-assessed as per following table :-

S.No.	Heads	Amount in Rs.
1.	Monthly Salary of claimant for leave period of 927 days	Rs.34,000 x 31 =10,54,000/-
2.	Medical Expenses	Rs.70,000/-
3.	Pain and sufferings	Rs.1,00,000/-
4.	Transport allowance	Rs.25,000/-
5.	Special Diet	Rs.15,000/-
6.	Permanent disablement	Rs.2,00,000/-
7.	Attendant charges	Rs.0,50,000/-
	Total	Rs.15,14,000/-

(Rs. Fifteen Lakh fourteen thousand only).

In the result, following order is passed.

O R D E R

- i. First Appeal is allowed.
- ii. The impugned judgment and award dated 15.2.2023 passed by the District Judge-2, Sangamner in M.A.C.P. no.69 of 2013 is modified.
- iii. Respondent nos.1 and 2 shall pay an amount of Rs.15,14,000/- (Rs.Fifteen Lakh fourteen thousand only) to the claimant alongwith interest @ 8% p.a. from the date of the application till realization of the amount.

- iv. The amount of compensation already paid be adjusted.
- v. Modified award be drawn up accordingly.
- vi. First appeal stands **disposed of**. Pending civil application, if any, also stands disposed of.

(S. G. CHAPALGAONKAR)
Judge

...

aaa-