



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

959 FIRST APPEAL NO. 2294 OF 2021

1. Atish Shivaji Kamble
Age: 26 years, Occu: Nil
R/o Bhadgaon, Tq. And Dist. Latur ..Appellant
(Orig. Claimant)

VERSUS

1. Dhananjay S/o Nivrutti Karpure
Age: 36 years, Occu: Driver,
R/o Peth-Ter, Tq. & Dist. Osmanabad
2. Sachidanand S/o Bhagwantrao Randive,
Age: Major, Occu: Business
R/o Sarola, Tq. & Dist. Osmanabad
3. United India Insurance Com. Ltd.
Through Its Branch Manager,
Shivaji Chowk, Ambajogai Road,
Latur, Tq. & Dist. Latur ..Respondents
(Orig. Respondents)

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Mr. Satish S. Manale, Advocate for Appellant
Mr. Mahendra B. Kolpe, Advocate for respondent No.1
Mr. Vinodkumar R. Mundada, Advocate for respondent No.3

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CORAM : SANJAY A. DESHMUKH, J.

DATE : 02.07.2026

PER COURT :-

1. This appeal is preferred against the judgment and award dated 20.02.2021 passed by the learned Member of Motor Accident Claims Tribunal, Latur in MACP No.112 of 2019.

2. It is the case of the claimant that on 22.05.2018 at about 07:00 a.m., the claimant alongwith his cousin brother Rahul Kamble was proceeding on a motorcycle bearing registration No.MH-24-AJ-5517 from Latur to Tuljapur, for having Darshan of Tuljapur Devi Temple. The claimant was riding the motorcycle and Rahul was the pillion rider. After having Darshan, they were proceeding towards Yermala. At that time at about 01:30 p.m, when they reached near the bridge of village Shingoli, Tq. and Dist. Osmanabad, a Tumtum auto-rickshaw bearing registration No. MH-25/F-1142, driven by respondent No.1 in a rash and negligent manner, came from the opposite side and dashed into the said motorcycle. As a result of the accident, the claimant sustained multiple injuries, including crush injuries to his left leg, hands, nose and other vital parts of the body.

3. Mr. S. S. Manale, learned Advocate for the appellant pointed out the pleadings, the evidence, the grounds of objections of the appeal and the reasons and findings in the impugned judgment. He submitted that, at the time of the accident, the claimant was working as a driver with Ambika Dal Mills at Kolpa and was earning a salary of Rs.10,000/- per month. He was also cultivating his father's agricultural land and earning Rs.2,000/- per month therefrom. He

further submitted that the claimant has sustained 100% functional disability. However, the learned Tribunal determined his disability at 60% only, though the Medical Board had determined his permanent physical disability at 70% on account of amputation of his left leg. He pointed out Exhibit-61, the Unique Disability Identity Card issued by the Medical Board of the Civil Hospital, Latur. He further submitted that the claimant's income is proved from the bank passbook of Janta Sahakari Bank. Though the evidence establishes that the claimant was earning Rs.8,000/- per month, the learned Tribunal considered his monthly income Rs.6,000/- only. He further submitted that, due to amputation of his left leg, the claimant had lost his marriage prospects. However, no compensation was awarded by the learned Tribunal under the head of loss of marriage prospects. He further submitted that the learned Tribunal had awarded only Rs.40,000/- towards special diet, travelling and attendant charges, and Rs.70,000/- towards pain and suffering, loss of expectation of life, loss of amenities, comfort, matrimonial prospects, future medical expenses, nourishment, loss of earnings during treatment and the cost of an artificial limb. He further submitted that, in view of the judgment of the Hon'ble Supreme Court in case of *National Insurance Co. Ltd. v. Pranay Sethi*, (2017) 16 SCC 680, the claimant is entitled

to addition of 40% towards loss of future prospects. However, the learned Tribunal has awarded only 20% towards future prospects. He, therefore, prayed to allow the appeal by enhancing the amount of compensation.

4. Learned Advocates for Respondent Nos.1 and 3 strongly opposed the appeal. They submitted that the learned Tribunal had awarded reasonable amount of compensation after appreciating the entire evidence on record. Therefore, there is no scope for interference in the impugned judgment and award. They lastly prayed to dismiss the appeal.

5. Perused the Record and Proceedings, particularly the reasons and findings in the impugned judgment along with the evidence on record and the grounds of objections raised in the appeal. On perusal of Exhibit-45, it is established that the claimant had sustained 70% permanent disability and it was duly proved by Dr. Chandrashekhar Santram Halnikar (P.W.-3), Halnikar Multispeciality and Plastic Surgery Hospital, Latur. He had also issued a certificate to the claimant regarding the loss of earning capacity. Exhibit-46 establishes that, because of amputation of the claimant's left leg, he

was unable to perform his job as a four-wheeler driver. Thus, he had suffered 100% loss of earning capacity. From Exhibit-46, it is clearly established that the claimant had suffered 100% functional disability. Dr. Chandrashekhar Santram Halnikar (PW.-3) was cross-examined at length and his evidence was not shaken in the cross-examination. Thus, it stands established that the claimant had suffered 100% functional disability. Though the claimant had sustained 70% permanent physical disability, his functional disability is 100% as he was serving as a driver. Therefore, the claimant is entitled to compensation for his functional disability of 100%. The learned Tribunal erred in determining the claimant's functional disability of 60% only.

6. As far as the claimant's income is concerned, the bank statement shows that he was getting an approximate salary of Rs.6,000/- to 8,000/- per month. Therefore, the learned Tribunal has rightly determined his average monthly income at Rs.6,000/-. However, while determining the compensation, the learned Tribunal failed to consider the claimant's 100% functional disability. The claimant was 23 years of age at the time of the accident. Due to the amputation of his left leg, his marriage prospects have been seriously

affected. The learned Tribunal has not awarded any compensation under the said head. In the facts and circumstances of the present case, the claimant is entitled to Rs.5,00,000/- towards loss of marriage prospects. Further, the learned Tribunal had awarded only Rs.40,000/- towards special diet, travelling and attendant charges. Considering the prolonged treatment undergone by the claimant, including treatment at Mumbai, he is entitled to Rs.1,50,000/- under the said head. Similarly, considering the pain and suffering undergone by the claimant, loss of expectation of life, loss of amenities and comfort, and future medical expenses including the cost of an artificial limb, the claimant is entitled to Rs.3,00,000/- under the said head.

7. Considering the monthly income of the claimant @ Rs.6,000/-. His annual income would come to Rs.72,000/- (Rs.6,000 $\times$ 12). By applying the multiplier of 18, the loss of future income would come to Rs.12,96,000/- (Rs.72,000 $\times$ 18). The claimant is also entitled to addition of 40% towards loss of future prospects in view of the judgment of the Hon'ble Supreme Court in the case of ***National Insurance Co. Ltd. v. Pranay Sethi, (2017) 16 SCC 680.*** Accordingly, 40% of Rs.12,96,000/- comes to Rs.5,18,400/- for which

the claimant is entitled as compensation under the head of loss of future prospects. Accordingly, the claimant is entitled to compensation under the following heads:

Particulars	Amount Rs.
Loss of future income (Rs.72,000 × 18)	Rs.12,96,000/-
Addition of 40% towards future prospects	Rs. 5,18,400/-
Loss of marriage prospects	Rs.5,00,000/-
Special diet, travelling and attendant charges	Rs.1,50,000/-
Pain and suffering, loss of expectation of life, loss of amenities, comfort and future medical expenses including artificial limb	Rs.3,00,000/-
Total Compensation	Rs.27,64,400/-

8. Thus, the claimant is entitled to total compensation of Rs.27,64,400/-, including the earlier compensation awarded and received by him, along with interest @ 7% per annum from the date of filing of the claim petition till its realization. The appeal, therefore, deserves to be partly allowed by partly setting aside the impugned judgment and award. Hence, the following order:

::ORDER::

- a. The first appeal is partly allowed.
- b. The impugned judgment and award is partly set aside and modified as under:

- c. The claimant is entitled to total compensation of Rs.27,64,400/-, including the earlier compensation awarded and received by him. Further, the claimant is also entitled to interest @ 7% per annum on the enhanced compensation from the date of the claim petition till realization of the entire amount.
- d. It is clarified that the claimants are not entitled to the interest for the period of delay, if any, condoned by this Court.
- e. If court fee is not paid for enhanced amount, the claimants shall pay deficit court fee. On receiving the same, the enhanced amount of compensation be paid to them.
- f. Award be drawn up accordingly.
- g. The respondents are directed to deposit the enhanced amount of compensation with accrued interest thereon in this Court within three (03) months from today.
- h. Pending civil applications, if any, are disposed of.

[SANJAY A. DESHMUKH, J.]