

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1675 OF 2006

Shri Charles Sidharam Londhe Appellant
Age : 52 years, Occ. Service,
R/o. Rajendra Nagar, 71/1 Bavade Vahasat,
E Ward, Kolhapur.

Versus

1. The Secretary, M.S.R.T.C.
Through Depot. Manager,
Central S.T. Stand, Kolhapur.

2. Internal Insurance Fund, ...Respondents
Wahatuk Bhavan, Mumbai.

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- *None for Appellant*
 - *Mr. Ketan Patil a/w. Ms. Pinky Bhansali for Respondents-MSRTC.*
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Coram : ASHWIN D. BHOBE, J.

Date : 1st October 2026.

ORAL JUDGMENT :

1. None for the Appellant.
2. Mr. Ketan Patil, learned Advocate for the Respondents-MSRTC, insisted on dismissal of this Appeal for non-prosecution.
3. This Appeal is of the year 2006, admitted on 31st July 2006. The

Appeal was listed on the “Daily Cause list” of 28th August, 2026, none was present for the Appellant. However, the Appeal could not be taken up on the said date due to paucity of time and was adjourned to today.

4. This Appeal is an Appeal for enhancement at the instance of the Appellant-Claimant. The function of the Motor Accidents Claim Tribunal/Court is to award “just” compensation that is reasonable based on the evidence produced on record. Accordingly, the request for dismissal of this Appeal, as made by Mr. Ketan Patil, is declined and the Appeal is taken up for hearing.

5. With the assistance of Mr. Ketan Patil, learned Advocate for the Respondents-MSRTC, the records were perused.

6. By this Appeal, the Appellant assails the Judgment and Award dated 19.04.2006 passed by the Motor Accident Claims Tribunal, Kholapur (“Tribunal”), in Motor Accident Claim Petition No. 658 of 2004, on the ground that the compensation awarded is inadequate (“impugned Award”).

7. The material facts as revealed from the claim petition relevant to the present Appeal are that on 21.03.2004, Appellant was proceeding towards Hupari from Kolhapur on his motorcycle bearing No. MH-09-AJ-7536. When he reached near the Temblai Temple, a State Transport (“ST”) bus was proceeding ahead of him, he honked the horn of his motorcycle to indicate

his intention to overtake the bus. The driver of the ST bus accordingly allowed him to overtake. While the Appellant was overtaking the ST bus with due care and caution, the driver of the ST bus suddenly and abruptly drove the bus at high speed and dashed into the motorcycle from the rear, as a result of which the Appellant fell and sustained grievous injuries, including a fracture. C.R. No. 53 of 2004 was registered against the driver of the S.T. bus. Appellant suffered a permanent disability to the extent of 38%.

8. On 26.10.2004, the Appellant filed Motor Accident Claim Petition No. 658 of 2004 before the Tribunal. Although the Respondents filed a Written Statement raising various defences, they did not lead any evidence.

9. The Tribunal, vide the impugned Award, granted compensation to the Appellant under the following heads:-

Particulars	Amount awarded by the Tribunal
Permanent Disability (38%)	Rs. 25,000.00
Loss of salary for the period of 72 days	Rs. 12,713.76
Medical Expenses	Rs. 55,750.87
Pain and suffering	Rs. 5,000.00
Travelling Expenses	Rs. 5,000.00
Total	Rs.1,03,464.63 @ Rs. 1,03,500.00

10. Mr. Ketan Patil, learned Advocate for the Respondents, submits that the Tribunal, after considering the entire material on record, has arrived at

compensation. He further submits that the impugned Award requires no interference. He therefore submits that the Appeal be dismissed on merits.

11. From the material on record, the following point for determination arises in the present Appeal:

“Whether the compensation awarded by the Tribunal to the Appellant is fair and justified?”

12. Perusal of the records indicates that the accident occurred between the motorcycle ridden by the Appellant and the ST bus owned by Respondent No.

1. The records further indicate that the driver of the S.T. bus was charged with offences punishable under Sections 279, 378 and 338 of the Indian Penal Code, read with Section 184 of the Motor Vehicles Act and that Crime No. 53 of 2004 was registered.

13. On appreciation of the evidence, the Tribunal concluded that the accident occurred due to the negligence of the ST bus driver and that the Appellant is entitled to compensation of Rs. 1,03,500/- . Paragraph 9 of the impugned Award reads as follows:-

9. *Issue No.2 :*

Petitioner's claim is for Rs.2,12,000/- under different heads. According to him he was serving in M.S.E.B. Kolhapur and was getting salary of Rs.10,595/-p.m. Due to accidental injuries he had

sustained permanent disability. Due to accidental injuries he was constrained to take a long leave and thereby he sustained a loss of his income. As referred supra that petitioner had sustained permanent disability to the extent of 38% and due to shortening of his leg he is unable to stand properly, facing difficulty in sitting, by folding legs and walking. In support of his pay and leave certificate the petitioner has examined witness on his behalf as PW.2 namely Uday Prakash Anandrao Ranaware at Ex.34 who has deposed that, petitioner is serving as a Peon in M.S.E.B. department and his pay for February 2004 was Rs.10,595/-. He has produced on record the relevant extract of pay bill which is marked as Ex.36. He has further deposed that, petitioner was on leave since 22-3-2004 to 31-3-2005 and that leave was with half pay. He has also produced on record the relevant order regarding leave of the petitioner which is marked as Ex.37. From the evidence of this witness it appears that, petitioner is still serving in M.S.E.B. There is no any record to show that, due to permanent disability the petitioner was constrained to leave his job. Therefore, though petitioner had sustained disability to the major extent still he is in service and thus there is no any future loss cause do him regarding his pay etc. In spite of that, considering the nature of injuries and percentage of the disablement he is entitled for the compensation of Rs.25,000/- on account of loss caused to him due to permanent disability. It appears that, petitioner was constrained to take a long leave due to accidental injuries. In the salary certificate Ex.37 in column No.5 it is mentioned that, petitioner was on leave for 72 days. P.W.2 Uday Ranaware has deposed that, the leave period of the petitioner was with half pay. Therefore, considering the gross salary of the petitioner Rs.10,595/- $\frac{1}{2}$ of it comes to Rs.5297-50ps. Now therefore it is necessary to calculate the loss of salary

for the period of 72 days as mentioned in the salary certificate Ex.37 which comes to Rs. 12,713-76ps. and the petitioner is entitled for this amount. The petitioner has stated that, during the period his hospitalization he was required to spend huge medical expenditure. In support of his version he has produced on record several medical bills, bills of hospitalization with list Ex.25/190. I have gone through all these medical bills, bills of hospitalization which are issued by the appropriate authority and during the relevant period of hospitalization of the petitioner and those are for Rs.55,750-87 and the petitioner is entitled for these medical bills. In addition to that, he is also entitled for compensation of Rs.5,000/- towards pains and sufferings considering the long period of treatment due to grievous fracture injuries. He is also entitled for compensation of Rs.5,000/- towards traveling. attendance, nutritious food and other allied expenditure, Thus, he is entitled for the total compensation of Rs.1,03,464-63 ps. Which is rounded to Rs.1,03,500/- together with interest thereon @9% p.a.from the date of petition.”

14. Though the reasoning of the Tribunal in awarding compensation cannot be faulted, the issue is whether the compensation of Rs. 25,000/- awarded by the Tribunal to the Appellant for 38% permanent disability, as established by the Disability Certificate at Exhibit 38, is just. The Respondents have neither filed any cross-appeal nor any cross-objection. In the facts and circumstances of the case at hand, the compensation of Rs. 50,000/- for permanent disability would be just and fair.

15. In view of the above, the Appeal is partly allowed. The impugned judgment and Award dated 19th April 2006 is modified to the limited extent of enhancing the compensation for permanent disability from Rs. 25,000/- to Rs. 50,000/-. The rest of the Award dated 19th April 2006 remains unaltered.

16. The Respondent Nos. 1 and 2 are directed to deposit the enhanced amount of Rs. 25,000/-, along with interest @ 9% thereon from the date of the Motor Accident Claim Petition No. 658 of 2004 till deposit, within four (4) weeks from today in the Registry of this Court.

17. Upon deposit of the said amount by the Respondent Nos. 1 and 2, the Appellant is permitted to withdraw the amount.

18. Registry to communicate this Judgment/Order to the Appellant.

19. Award be drawn accordingly.

[ASHWIN D. BHOBE, J.]

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