

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

**BENCH AT AURANGABAD**

...

15 FIRST APPEAL NO. 1254 OF 2013  
WITH CA/4313/2015 IN FA/1254/2013

**TASLIMKHAN BUDHANKHAN PATHAN**

**VERSUS**

**GULSHANABI NABABKHAN PATHAN AND ORS**

...

Advocate for Appellant : Mr. Bhokarikar Madhav M  
Advocate for Respondents 1 and 2 : Mr. D.S. Joshi  
Advocate for Respondent No.3 : Mr. Himanshu Patankar

...

**CORAM : S. V. GANGAPURWALA, J.**

**DATE : 5th October, 2015**

**PER COURT :**

1. The present appellant/original claimant had filed application under section 166 of the Motor Vehicles Act, seeking compensation on account of injury sustained by him in an accident. The claim petition is partly allowed. The present appeal is filed by the claimant for further enhancement.

2. Mr. Bhokarikar, the learned counsel for the appellant, submits that the appellant has suffered 100% disability. His spinal cord is damaged and his whole body paralyzed. The learned counsel further submits that even the medical certificate is placed on record. The appellant was working as cleaner. He was getting

salary of Rs.3500/- per month. However, the court erroneously considered only Rs.2000/- per month as his salary. According to learned counsel, the work of cleaner is skilled job. The salary could have been considered as Rs.3500/- per month.

3. The learned counsel for the appellant further submits that paltry sum has been awarded towards pains and suffers and no amount is awarded for loss of amenities, future expenses. According to learned counsel, for the whole life, the appellant would be paralyzed. Even the appellant is not in position to move so also get up from the bed.

4. Mr.Patankar, learned counsel for the respondent No.3, submits that the tribunal has considered all the relevant aspects of the matter. Salary of Rs.3500/- is not proved. The tribunal has rightly considered the notional income of Rs.2000/- per month. The learned counsel submits that the medical bills, which are proved and on record, have been considered. The compensation towards medical expenses has been awarded. No illegality has been committed in the same. Even the Doctor is not examined. The tribunal has not committed

any error while computing the compensation amount.

5. I have considered the submissions so also I have gone through the record and proceedings.

6. As far as disability of 100% is concerned, the Medical Board, consisting of Orthopedic Surgeon, Resident Medical Officer and Civil Surgeon of Jalgaon, has examined the appellant and the said Board had issued certificate that the appellant has sustained 100% disability. His both lower limbs are paralyzed with bladder bowel involvement. The said certificate is at Exh.57. The tribunal was also convinced that the appellant had sustained 100% disability and has considered 100% disability. The accident is of the 2004. While considering the income, the tribunal has considered Rs.2000/- per month. Even in the year 2004, notional income could have been considered as Rs.3000/- per month. Though the exact proof of income was not available, it would be appropriate to consider the notional income of the appellant. It is held to be proved that the appellant was working as cleaner.

7. Considering the above, I would hold that income

of the appellant was Rs.3000/- per month. The tribunal has rightly applied the multiplier of 18, considering the age.

8. The Apex Court, in the case of **Syed Sadiq etc. Versus Divisional Manager, United India Insurance Co., reported in AIR 2014 SUPREME COURT 1052**, has considered various heads for grant of compensation in case of disability, i.e. towards pains and sufferings, towards loss of amenities, towards future expenses and towards cost of litigation. In the said case before the Apex Court, the injured had suffered fractures of humerus and tibia. In the present case, disability is more. His both lower limbs are paralyzed with bladder bowel involvement. The appellant would not be in position to perform his day to day work. He would always require one attendant. He would also never be in position to sit and walk.

9. Considering the above, towards pains and suffering, I would award to the appellant, Rs.75,000/-, towards medical expenses and incidental charges Rs.20,000/-, towards loss of amenities Rs.50,000/-, towards future expenses, Rs.5,000/-. As such, I award

total compensation of Rs.7,98,000/-. In the result, I pass following order:

- i. The order passed by the Tribunal is modified.
- ii. The respondents 1 to 3 are hereby jointly and severally liable to pay compensation of Rs.7,98,000/- with interest @ Rs.7% per annum from the date of claim petition till realization of the full amount of compensation.
- iii. The amount already deposited by the insurance company shall be adjusted as on the date, the same is deposited.
- iv. The first appeal is accordingly disposed of. Civil application also stands disposed of. No costs.

( S. V. GANGAPURWALA, J. )

JPC