

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

1 FIRST APPEAL NO.1325 OF 2003

Noormohammad Miyasaheb Sayad
Age: 51 years, Occu.: Service,
R/o. Darga Daira, Ahmednagar,
Tal. and Dist. Ahmednagar.

..Appellant
(Original Applicant)

VERSUS

1) Mr. M.Z.Badjate
(Shri Mahavir Zumbarlal
Badjate), Age: Major,
Occ.: Business,
R/o. F-52, MIDC, Mahavir
Food Products, Ahmednagar.

2) Branch Manager,
National Insurance Co.Ltd.,
Raj Chambers, Kothala Stand,
Ahmednagar.

..Respondents
(Original Opponents)

...
Advocate for Appellant : Shri S.D.Kulkarni
Advocate for Respondent No.1 : Shri Dnyaneshwar J.Patil h/f.
Shri M.Y.Deshmukh
Advocate for Respondent No.2 : Shri V.N.Upadhye
...

CORAM : P.R.BORA, J.

DATE: 14th January, 2019

ORAL JUDGMENT:-

1 The appellant has filed the present appeal seeking enhancement in the amount of compensation granted by the Motor Accident Claims Tribunal, Ahmednagar in Motor Accident Claim Petition No.858 of 1998 decided by the said Tribunal on

13.03.2003.

2 The appellant (hereinafter referred to as the claimant) had filed the aforesaid claim petition claiming the compensation on account of injuries caused to him in a vehicular accident happened on 08.06.1998 having involvement of Premier Padmini Car bearing registration No.MH-16 E-241 owned by the present respondent No.1 and insured with present respondent No.2. It was the contention of the claimant that he was subjected to incur huge expenses on his treatment and also incurred permanent disablement because of the injuries caused to him in the said accident. The claimant had claimed Rs.3,00,000/- from the owner and insurer of the said Premier Padmini Car. The learned Tribunal, after having assessed the oral and documentary evidence on record, has awarded compensation to the tune of Rs.1,95,000/- to the claimant. Aggrieved thereby, the appellant has preferred the present appeal seeking enhancement in the amount of compensation by Rs.1,05,000/-.

3 The learned Counsel appearing for the appellant submitted that a very reasonable amount of compensation was claimed by the appellant - claimant and in the circumstances, the Tribunal must have decreed the claim petition by awarding the

compensation in toto. The learned Counsel submitted that the Tribunal has failed in appreciating certain facts, which have resulted in awarding less amount of compensation to the claimant. The learned Counsel submitted that though the claimant had placed on record the medicine and hospital bills worth Rs.1,52,000/-, the Tribunal has awarded the medical expenses only to the extent of Rs.1,25,000/-. The learned Counsel submitted that the said amount has been awarded by the Tribunal including the conveyance expenses. The learned Counsel submitted that the Tribunal has awarded inadequate compensation even under the head of future loss of income and towards the pain and sufferings. The learned Counsel in the circumstances prayed for adequate enhancement in the amount of compensation.

4 Shri V.N.Upadhye, learned Counsel for appearing for the respondent Insurance Company has supported the impugned Judgment and award. The learned Counsel submitted that infact without there being any pleading, the Tribunal has considered the relevant aspects and has awarded a reasonable amount of compensation and as such no more compensation needs to be granted. The learned Counsel, therefore, prayed for dismissal of the appeal.

5 I have given due consideration to the submissions made by the learned Counsel appearing for the appellant – claimant and learned Counsel appearing for the respondent Insurance Company. I have perused the impugned Judgment and the evidence on record. The Tribunal has awarded the compensation as follows:-

I)	Personal suffering and loss of enjoyment of life	- Rs. 50,000/-
II)	Factual pecuniary loss resulting into medical expenses, conveyance	- Rs.1,25,000/-
III)	Future loss of income	- Rs. 20,000/-

	Total	- Rs.1,95,000/-

6 The perusal of the discussion made by the Tribunal in paragraph No.7 reveals that though the claimant had placed on record bills worth Rs.1,52,000/- for medicine and hospital expenses, the Tribunal has considered the bills only to the tune of Rs.1,22,536/- observing that those are the only genuine bills. It appears that the Tribunal has awarded a meager amount i.e. less than Rs.2,500/- towards the conveyance expenses since the Tribunal has awarded a composite amount of Rs.1,25,000/- towards the medical expenses and conveyance. It appears that there was no reason for the Tribunal in not allowing the entire medical expenses when relevant bills and receipts were produced on record by the claimant. The amount of conveyance as awarded by the Tribunal also appears to be insufficient. The

amount of Rs.50,000/- awarded by the Tribunal towards pain and sufferings and the loss of amenities and enjoyment of life also appears to be inadequate. The amount as has been awarded by the Tribunal towards future loss of income to the tune of Rs.20,000/- also cannot be said to be just and fair.

7 After having considered the entire evidence on record, it appears to me that the claimant had really claimed a reasonable amount of compensation and as such the entire said amount of Rs.3,00,000/- would liable to be awarded to him by way of compensation. As against it, the Tribunal has awarded Rs.1,95,000/- to the claimant.

8 For the reasons stated above, the amount of compensation awarded to the appellant - claimant needs to be enhanced by Rs.1,05,000/-. According to me, the just and fair compensation payable to the claimant is Rs.3,00,000/-. The appeal filed by the appellant - claimant therefore deserves to be allowed. Hence, the following order is passed:-

ORDER

- I) Appeal is allowed.

II) The amount of compensation payable to the appellant – claimant is enhanced by Rs.1,05,000/-

III) Respondent Nos.1 and 2 shall jointly and severally pay the aforesaid amount of compensation to the appellant – claimant with interest @ 9% from the date of filing of the appeal till the date of its realization.

IV) Award be prepared accordingly.

V) Appeal stands disposed of in the aforesaid terms.

(P.R.BORA)
JUDGE

SPT