

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

FIRST APPEAL NO.248 OF 2009

Anil s/o Narayanrao Maharanwar
Age 45 years, Occu. Agri.,
R/o Shantinagar, Degloor,
Tq. Degloor, District Nanded

... APPELLANT

VERSUS

1. Uttam s/o Bhima Kondawar,
Age major, Occu. Transport Business &
Owner of Tempo No.MH-24/8647,
R/o Karadkhed, Tq. Degloor,
District Nanded.

2. The Divisional Manager,
The United India Insurance Co. Ltd.,
Shri Guru Govindsingh Road, Nanded,
Tq. & Dist. Nanded (Market Road),
Upper Side of Bombay Machinery,
Nanded, Tq. & Dist. Nanded.

... RESPONDENTS

.....
Shri R.M. Kanakdande, Advocate with
Shri K.M. Nagarkar, Advocate for appellant
Shri V.R. Mundada, Advocate for respondent No.2.
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CORAM : R. G. AVACHAT, J.

DATE : 30th NOVEMBER, 2021

JUDGMENT :

This is claimant's appeal for enhancement of compensation awarded by the Motor Accident Claims Tribunal on account of injuries and permanent disability suffered in

vehicular accident.

2. Heard. The appellant suffered 30% disability in the nature of fracture of the ribs 1 to 8 right side with henithmic, fracture of the radius at the jointia lower one third to one third, with disruption of lower radio ulnar joint, fracture of the superior and inferior pubic rami of right side of the pelvic and suffered 30% disability. He incurred medical expenditure amounting to Rs.1,45,000/-. The Tribunal, after considering the evidence in the matter, awarded a sum of Rs.2,20,000/- as compensation with interest @ 7% p.a.

3. The learned counsel for the appellant/ claimant would submit that, the appellant was agriculturist by profession. He was driver as well. Due to nature of injuries and permanent disability, there is substantial decrease in his earning capacity. The Tribunal has not awarded any compensation on this count. A very meagre amount is awarded towards pain and sufferings and other heads as well. He, therefore, urged for enhancement of compensation.

4. The learned counsel for the respondent Insurance Company would, on the other hand, submit that, the amount

of compensation is just and reasonable. No interference is, therefore, warranted. There is no evidence to indicate loss of earning capacity.

5. Considered the submissions advanced. Perused the evidence in the matter. The appellant suffered 30% of disability in the nature as stated above. He was indoor patient for over 15 days. He took treatment in Apollo Hospital at Hyderabad. Admittedly, he incurred medical expenditure worth Rs.1,45,000/-. The same indicates seriousness of the injuries suffered by him. The Tribunal awarded the compensation under various heads as under :

1	Re-imbursement of medical expenditure	Rs.1,45,000/-
2	Travelling Expenses	Rs.3,000/-
3	Special Diet	Rs.2,000/-
4	Attendant	Rs.5,000/-
5	Pain and Sufferings	Rs.15,000/-
6	Loss of Income	Rs.4,500/-
7	Loss of enjoyment of life	Rs.4,000/-
8	S.T.D. (Telephone Bills)	Rs.500/-

6. This Court is inclined to enhance the amount of compensation, since the medical expenditure incurred by the appellant itself indicates severity of nature of injuries suffered

by the appellant. This Court is, therefore, inclined to enhance the compensation under the following heads as under :

1	Pain and Sufferings	20,000/-
2	Loss of Income (Period of not less than 6 months)	15,000/-
3	Special Diet	10,000/-
4	Attendance, conveyance and loss of enjoyment of life	15,000/-
	Total enhancement :-	60,000/-

7. The appeal, therefore, succeeds in terms of the following order :

ORDER

- (I) The appeal is partly allowed.
- (II) The amount of compensation awarded by the Tribunal is enhanced from Rs.2,20,000/- to Rs.2,80,000/-. The amount of enhanced compensation of Rs.60,000/- shall carry interest @ 5% p.a. from the date of claim petition to the date of payment.

(R. G. AVACHAT)
JUDGE

fmp/-