

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

FIRST APPEAL NO. 2711 OF 2010

Chandrakant Balkrishna Sant
Age: 63 years, Occupation – Pensioner
R/o. 24 Vidyut Colony, Jalgaon

... Appellant
(Ori. Claimant)

Versus

1. Jayanta Ghanashyam Mahajan
Age: 38 years, Occupation – Driver
R/o Hanuman Nagar, Bhusawal,
Taluka Bhusawal, Dist. Jalgaon
2. Sudhir Avale
Age: 50 years, Occupation – Truck Owner
R/o G-4/5, Sector No.8, Vashi,
Navi Mumbai
3. ICICI Lombard General Insurance Co.Ltd.,
Zenith House, Keshavrao Kade Marg,
Mahalaxmi, Mumbai
4. Vilas Ghanashyam Mahajan
Age: 48 years, Occupation – Business,
R/o Parshuram Hanuman Nagar,
Bhusawal, Taluka Bhusawal,
Dist. Jalgaon

... Respondents
(Ori. Respondents)

....

Mr. M. M. Bhokariker, Advocate for appellant
Mr. Ravindra D. Bhamare, Advocate h/f Mr. Ajay Talhar, Advocate for
respondent Nos. 1 and 4
Mr. S. S. Dargad, Advocate h/f Mr. S. G. Chapalgaonkar, Advocate for
respondent No.3

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CORAM : R. G. AVACHAT, J.

DATED : 22nd OCTOBER, 2021

PER COURT :-

. This is an appeal for enhancement of compensation awarded on account of injuries and permanent disability suffered in an accident involving motor vehicle.

2. The appellant – claimant was knocked down by a backing up Tempo Trax. As a result thereof, he suffered multiple injuries including fracture. He was indoor patient for about 15 days. He had to incur medical expenditure of little over Rs.20,000/-. The Tribunal on appreciating the evidence before it, awarded as sum of Rs.50,840/- as cmpensation.

3. Heard. Perused the impugned award and the evidence relied on.

The details/break up of the amount of compensation awarded by the Tribunal is as under:-

Medical expenses	Rs. 20,840/-
Disability, Pain and suffering	Rs. 25,000/-
Special diet and other expenses	Rs. 05,000/-

Total	Rs. 50,840/-
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4. Learned Advocate for the appellant – claimant would submit that no compensation has been awarded on account of loss of earning capacity, although the appellant – claimant was a retired person. He would serve as priest. A rod has been implanted in his leg. The same was required to be removed by performing an operation. No compensation was awarded on account of future medical treatment. According to him, the amount of compensation awarded by the Tribunal is grossly inadequate. It has not been granted under many heads. He, therefore, urged for enhancing it to Rs.1,50,000/-.

5. Learned Advocate for the respondent – Insurance Company would, on the other hand, submit that in proof of disability certificate, the Medical Officer was not examined. The appellant – claimant is a retired person. There is no loss of earning capacity. As such, the amount awarded by the Tribunal is just and reasonable.

6. Admittedly, the appellant was knocked down by a backing up Tempo Trax. The evidence indicate that he was indoor patient for little over 12 days. There are medical bills to indicate him to have spent little over Rs.20,000/- for treatment. The same would indicate severity of the injuries and disability suffered. The disability certificate record has been issued by the Civil Surgeon and two other members of the Medical Board. The disability is - fracture neck femur right side operated with austin moore prothesis with mild stiffaces. If we keep aside the amount awarded towards reimbursement of medical expenditure, only a sum of Rs.30,000/- was granted towards compensation. The same is necessarily on lower side. It has been specifically averred by the appellant that as a result of the disability, he is unable to squat, walk long distance and sit cross legged. Although, he was retired. He was professional priest. He must have suffered loss for at least a period of two months without granting the appellant compensation under various heads. It would be just and proper to enhance the amount of compensation by Rs.60,000/-. Therefore, the total compensation comes to Rs.1,10,840/-.

7. In the result, the appeal is allowed.
8. The amount of compensation awarded by the Tribunal is enhanced by Rs.60,000/-. Therefore, total compensation comes to Rs.1,10,840/-(50840+60,000). The enhanced amount of compensation shall carry interest @ 6% p.a. from the date of petition to the date of payment.
9. Rest of the terms of the impugned award to stand unaltered.

[R. G. AVACHAT, J.]

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