

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

FIRST APPEAL NO. 749 OF 2004

Amir Gulab Sayyed
Age : 31 years, Occ : Nil,
R/o Walki, Tq. Ahmednagar,
Dist. Ahmednagar.

..APPELLANT
(Original Claimant)

VERSUS

1. Natha Mahadu Jadhav
Age : 44 years, Occ : Driver,
R/o Tarakpur Depot,
S.T. Stand, Nagar Depot.
(Appeal dismissed against
Respondent No.1 vide Registrar's
order dated 10.10.2006)
2. The Maharashtra State Road
Transport Corporation,
(Summons to be served on the
Depot Manager, M.S.R.T.C.
Ahmednagar).

..RESPONDENTS
(Original respondents)

...

Advocate for Appellant : Mr.R.K. Temkar
Advocate for Respondent No.2 : Mr. Manoj Shinde h/f Mr.
M.K. Goyanka

...
CORAM : S.G.DIGE, J.

RESERVED ON : 27.09.2022
PRONOUNCED ON : 19.10.2022

JUDGMENT :

By this appeal, the appellant is seeking

enhancement of compensation.

2. Brief facts of the case are as under :-

On 5th September, 1996 at about 8 a.m. the appellant (for short, “the claimant”) along with brother-in-law were coming on the bicycle from Kedgaon to Ahmednagar. When they reached near Kinetic Chowk, one S.T. Bus bearing No.MH-12-2609 came from opposite site and gave severe dash to the bicycle of the claimant. Due to the said dash, the claimant and his brother-in-law sustained serious injuries. Offence was registered against Bus driver.

3. The claimant filed Claim Petition before the Motor Accident Claims Tribunal, Ahmednagar (for short, “the Tribunal”) for getting compensation. The Tribunal has passed the judgment and order, which is under challenge in this appeal.

4. It is the contention of the learned counsel for the appellant that the Tribunal has awarded lumpsum compensation of Rs.1,65,000/- when the claimant has sustained 50% disability. Neither future prospects are

awarded nor multiplier is applied while awarding the compensation. The compensation awarded under non-pecuniary heads are on lower side. Hence requested to allow the appeal.

5. It is the contention of the learned counsel for the respondent 2 that the claimant was doing work of Mason, on that basis the compensation is awarded. While awarding the compensation, the Tribunal has considered all the aspects. The Tribunal has passed the well reasoned order and has granted proper compensation. Hence no interference is required in it.

6. I have heard both the learned counsel. Perused the judgment and order passed by the Tribunal.

7. The issue involved in this appeal is compensation awarded by the Tribunal is on lower side.

8. Admittedly, the claimant has sustained 50% permanent disability due to the said accident. The disability certificate is at Exhibit-31. The Tribunal has considered the

notional income of the claimant at Rs.3,000/- per month. The Tribunal has awarded lumpsum amount of Rs.1,65,000/-. In my view, as per the view of the Hon'ble Apex Court in the case of ***National Insurance Company Limited Vs. Pranay Sethi and others*** reported in ***(2017) 16 SCC 680***, the claimant is entitled for 40% future prospects as he was 25 years of age at the time of accident. No multiplier is applied while calculating the compensation. As per the view of the Hon'ble Apex Court in the case of ***Sarla Verma (Smt) and others Vs. Delhi Transport Corporation and another*** reported in ***(2009) 6 SCC 121***, in the present case, the multiplier of 18 is applicable.

9. It appears from the record that the claimant was admitted in the hospital for 86 days. However, Rs.10,000/- was given for attendance charges, it should be Rs.30,000/-. Rs.10,000/- is given for diet, it should be Rs.40,000/-. Rs.10,000/- is given for pains and suffering, I am considering it to Rs.50,000/-. The Tribunal has considered Rs.52,000/- for medical bills, I am considering the same as it is.

10. In view of the above calculations, the appellant/
claimant is entitle to receive the following compensation :-

Heads	Compensation
1. Notional income	: Rs. 3,000/- per month
2. Yearly income Rs.3,000/- X 12	: Rs.36,000/-
3. Future Prospects	: Rs.14,400/- ===== Rs.50,400/-
4. Multiplier 18 (Rs.50,400/- X 18)	: Rs.9,07,200/-
5. 50% Disability	: - Rs.4,53,600 ===== Rs.4,53,600/-
6. Non-pecuniary heads	
(a) Attendance charges :	Rs. 30,000/-
(admitted for 86 days)	
(b) For Diet :	Rs. 40,000/-
(c) Pains and Suffering :	Rs. 50,000/-
(d) Medical Bills :	Rs. 52,000/-
7. Total	: Rs.6,25,600/-
The Tribunal has awarded	Rs. 1,60,000/-
The compensation amount	- Rs. 6,25,600/-
as calculated by this Court	=====
Appellant is entitle to enhanced amount	Rs. 4,65,600/-

11. In view of the above, I pass the following order:-

ORDER

- (i) The appeal is partly allowed.
- (ii) The amount of compensation is enhanced from Rs.1,60,000/- to Rs.6,25,600/-. The appellant is entitle to enhanced amount of Rs.4,65,600/- @ 6% from the date of filing claim petition till realization of amount.
- iii) Respondents shall deposit enhanced amount within six weeks.
- (iv) Appellant is permitted to withdraw deposited amount.
- (v) The appeal is disposed of in above terms.

[S.G.DIGE]
JUDGE

SGA/-