

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

FIRST APPEAL NO. 3281 OF 2008

Nana @ Dnyaneshwar Prabhat Patil,
Age : 38 years, Occu. : Agriculture & Business,
R/o. : Dagadi-Subgavan, Tq. Parola,
Dist. Jalgaon

... APPELLANT
(Ori. Petitioner)

VERSUS

1. Chandabai Anilkumar Lahriya,
Age : 38 years, Occu. : Truck owner,
R/o. : Pragati Nagar, at and Post – Vani,
Dist. Chandrapur

2. The New India Insurance Co. Ltd.,
Through it's Divisional Manager,
Khandesh Mill Shopping Complex,
Dist. Jalgaon Aurangbad

... RESPONDENTS
(Ori. Respondents)

...

Mrs. M.L. Sangit h/f. Mr. L.V. Sangit : Advocate for Appellant
Mr. V.R. Mundada : Advocate for Respondent No.2

....

CORAM : S.G. DIGE, J.

DATE : 22nd September, 2022

ORAL JUDGMENT :

. By this appeal appellant is seeking enhancement of compensation.

2. It is contention of learned Counsel for appellant that, appellant met with an accident on 11th December, 2002 at about 05:30 p.m. on National Highway No.6, when he was going on motorcycle. His motorcycle bearing No.MH-19-U-1968 was dashed by the truck bearing No.MP-9-K-7844. He was admitted in hospital. Due to said accident appellant sustained 35% disability therefore, he is unable to do his daily work. The claim of appellant before the Tribunal was for amount of Rs.2,00,000/- but the Tribunal has awarded amount of Rs.1,30,800/- which is on lower side. Hence, this appeal for enhancement.

3. It is contention of learned Counsel for respondent No.2 that, the Tribunal has considered income of deceased at Rs.18,000/- per year. Multiplier is also applied by the Tribunal. The Tribunal has calculated the compensation on the basis of evidence led before the Tribunal. Hence, order passed by the Tribunal is legal and valid.

4. I have heard both the learned Counsel. Perused

judgment and order passed by the Tribunal.

5. The Tribunal has granted the following compensation to the appellant :

Yearly income Compensation payable :	Rs.18,000 $\frac{12,000 \times 35 \times 16}{100}$	Rs.1,00,080
Non Pecuniary damages :		
For Medical expenses : (supported by bills) For loss of income : Pain and suffering :	Rs.51,000 Rs.2,000 <u>Rs.2,000</u> Rs.55,000	 Rs.55,000
Minus NFL amount :		Rs.1,55,800
Total		<u>Rs.25,000</u> Rs.1,30,800

6. The Tribunal has awarded amount of Rs.2,000/- towards pain and suffering. In my view, it is very less amount comparing 35% disability of the appellant. Hence, I am considering it as amount of Rs.15,000/-. The Tribunal has not awarded any amount for transportation. The appellant is resident of Dagadi Subgavan, Tq. Parola, Dist. Jalgaon. He was admitted in hospital at Jalgaon hence, I am considering amount of Rs.5,000/- as transportation.

By this calculation appellant is entitled for enhanced amount of Rs.20,000/-. In view of the above, I pass the following order :-

ORDER

- (a) Appeal is allowed.
- (b) Appellant is entitled for enhanced amount of Rs.20,000/- @ 6% p.a. from the date of filing of petition till its realisation.
- (c) Respondent Nos.1 and 2 shall jointly and severally deposit aforementioned amount before the Tribunal within a month, after receipt of this order.
- (d) Appellant is permitted to withdraw deposited amount.
- (e) Appeal is disposed of.

[S.G. DIGE, J.]