

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

FIRST APPEAL NO.4302 OF 2016

Yuvraj s/o. Laxman Shirsat,
Age: 40 years, Occu. Business,
R/o. Yogeshwar Nagar,
Ambad Road, Jalna,
Tq. & Dist. Jalna.

.. APPELLANT
[Orig. Claimant]

VERSUS

- 1] Shaikh Habib Shaikh Ahmed
Age: 54 years, Occu. Driver,
R/o. Madipura, Old Jalna,
Tq. And Dist. Jalna.
- 2] Shaikh Hanif Shaikh Majid
Age: 53 years, Occu. Business,
R/o. Near Jamuna Masjid, Tattupura,
Jalna, Tq. and Dist. Jalna.
- 3] Shriram General Insurance Company Ltd.
E-8, EPIP, Riko, Industrial Area,
Sitapura Jaipur, Rajsthan – 302022

.. RESPONDENTS

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Mr.Arun S. Shejwal, Advocate for the appellant.
Mr.Sohel E. Siddique, Advocate for respondent nos.1 and 2.
Mr.S.S.Dargad, Advocate holding for
Mr.S.G.Chapalgaonkar, Advocate for respondent no.3.

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CORAM : S.G.DIGE, J.

RESERVED ON : 26.07.2022
PRONOUNCED ON : 05.09.2022

JUDGMENT :

1] Being aggrieved and dissatisfied by the judgment and award passed by the Motor Accident Claims Tribunal, Jalna, the appellant – original claimant is seeking enhancement by this Appeal.

Brief facts of the case are as under :

2] On 6th January, 2012 at about 2.00 p.m. the claimant was travelling to his shop on his motor cycle. Respondent no.1, who was driving his truck in rash and negligent manner, gave dash to the motorcycle of the appellant from backside. Due to the said dash, the appellant fell on road and his right hand was crushed under the wheel of truck. Then he admitted in the Hospital for treatment. He suffered 47% permanent disability due to the said accident. Crime was registered against driver of offending truck.

3] The appellant filed claim petition for getting compensation before the Motor Accident Claims Tribunal,

Jalna [for short 'the Tribunal']. Considering the evidence on record and after hearing the parties, the Tribunal has awarded the compensation. Against the said judgment and order, this appeal.

4] The issue involved in the appeal is in respect of lesser compensation awarded to the appellant.

5] It is the contention of the learned counsel for the appellant that the appellant was running a grocery shop and he was earning Rs.6,000/- per month. The evidence is led in that regard but the Tribunal has considered only Rs.3,000/- as monthly income of the appellant, which is less, hence, requested to allow the appeal.

6] It is the contention of the learned counsel for respondent no.3 that after considering the evidence on record and the evidence produced by the appellant about his income, the Tribunal has awarded the compensation, which is just and proper. The judgment and order passed by the Tribunal is legal and valid.

7] I have heard both learned counsel. Perused the judgment and order passed by the Tribunal. As the issue is in respect of monthly income of the claimant, I have seen the evidence led by the appellant in that regard. The appellant has examined himself at Exhibit-20. He has stated that he is running Manav Kirana and General Stores at Sorati Nagar, Near Ambad Chaufuli, Jalna since the year 2007 and he was getting Rs.6,000/- per month. From the said income, he was maintaining his family. It is not denied by the respondents that the appellant had no grocery shop. The Tribunal has considered Rs.3,000/- monthly income from the said grocery shop but the Tribunal has not given any reason why Rs.3,000/- monthly income is considered. The grocery shop and general stores of the appellant is situated in City of Jalna. Jalna is a District place. The appellant was maintaining his family from the income of the said grocery shop and general stores. It proves that he was getting sufficient income from the said grocery and general stores and it shows that he had more income than

Rs.3,000/-, hence, I am considering Rs.4,500/- income as monthly income of the appellant. Then the annual income of the appellant comes to Rs.4500/- x 12 = Rs.54,000/-.

8] Considering the above, the appellant is entitled for the following amount as compensation :

Monthly income of the claimant	Rs.4,500/- [as against Rs.3,000/-].
Annual income	Rs.4500 x 12 = Rs.54,000/-
47% permanent disability	Rs.54,000 x 0.47 = Rs.25,380/-
Multiplier of 15	Rs.25380 x 15 = Rs.3,80,700/-
Total loss of earning	Rs.3,80,700/- [as against Rs.2,53,800/-]
Hospital Expenses	Rs.1,11,800/-
Medicine Expenses	Rs.70,081/-
Toilet chair expenses	Rs.800/-
X-Ray charges	Rs.1,000/-
Blood Bank charges	Rs.4,900/-
Instrument charges	Rs.14,200/-
Pains and sufferings	Rs.47,000/-
Total	Rs.6,30,481/-
Interest payable @ 7.5% as granted by the Tribunal from the date of filing of claim petition i.e. 18.01.2013.	

9] In view of the above, I pass the following order:-

ORDER

i] Appeal is allowed. The appellant is entitled for the enhanced amount of Rs.1,26,900/-. The rate of interest is as per the Tribunal.

ii] Accordingly, Appeal is disposed of.

**[S.G.DIGE]
JUDGE**