

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

FIRST APPEAL NO. 1466 OF 2004

Piraji Yadavrao Kamble
Age : 37 years, Occ : Milkman,
R/o Kerwadi, Tq. Palam,
Dist. Parbhani

..APPELLANT
(Original Claimant)

VERSUS

1. Bhagwan Govindrao Jangle
Age : 40 years, Occ : Business,
R/o Palam, Tq. Palam,
Dist. Parbhani.
2. The United India Insurance Company
Through it's Branch Manager
at Parbhani, Dist. Parbhani.

..RESPONDENTS
(Original Respondents)

...

Advocate for Appellant : Mr.Mahesh P. Kale
Advocate for Respondent No. 2 : Mr.A.V. Soman h/f Mr. D.V.
Soman

CORAM : S.G.DIGE, J.

DATE : 13.09.2022

JUDGMENT :

By this appeal, the appellant is seeking
enhancement of compensation.

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

On 1st January, 2000, the appellant was going from village Kerwadi to Palam in auto-rickshaw bearing no.MCB-8615 (MH-21-B/3446). Due to rash and negligent driving of the driver of auto-rickshaw, it came to be turtled and the appellant and other passengers sustained several injuries. The offence was registered against the driver of the auto-rickshaw i.e. respondent no.1 herein for rash and negligent driving.

The appellant filed claim petition for getting compensation before the Motor Accident Claims Tribunal, Parbhani (For short, "the Tribunal"). The Tribunal has awarded compensation of Rs.30,000/-. Against the said judgment and order this appeal for enhancement.

3. It is contention of the learned counsel for the appellant that the Tribunal has not considered the permanent disability of 18% caused to the appellant. The

Tribunal has not properly awarded the amount, hence requested to allow the appeal.

4. It is contention of the learned counsel for the respondent no.2 that the Tribunal has considered the evidence led by the appellant and on that basis the compensation is awarded. The appellant failed to produce necessary documents before the Tribunal, hence the judgment and order passed by the Tribunal is legal and valid.

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

6. The issue involved in this appeal is compensation awarded to the appellant. It is contention of the learned counsel for the appellant that though the appellant has sustained 18% permanent disability, the Tribunal has not awarded proper compensation. The appellant has examined Dr. Balasaheb Dattatraya Masare to

prove disability certificate. This witness has stated that he examined the appellant and issued certificate Exhibit-33. There was 18% disability suffered by the appellant. It has come on record that the appellant was treated at Government Hospital at Ambajogai whereas the certificate is given by doctor at Parbhani. Doctor has stated that there was muscular shortening and difficulty in squatting. No other medical papers i.e. medical bills for the treatment are produced on record. Hence I am considering 10% disability of the appellant.

7. In view of the above, the appellant is entitle to receive the following amount of compensation :-

Sr. No.	Head	Compensation awarded
1.	Monthly income	Rs.1800/- per month
2.	Annual income (Rs.1800/- X 12)	Rs.21,600/- per year
3.	Multiplier of 11 (Rs.21,600/- X 11)	Rs.2,37,600/-
4.	10% loss of future earning capacity	Rs.23,760/-
5.	Non-pecuniary damages as awarded by the Tribunal.	Rs.30,000/-
.	Total	Rs.53,760/-

8. In view of the above, I pass the following order

ORDER

- (i) The appeal is allowed.
- (ii) The amount of compensation is enhanced from Rs.30,000/- to Rs.53,760/-. Appellant is entitle to enhanced amount of Rs.23,760/- @ 6 % from the date of filing claim petition till realization of amount.
- (iii) Appeal is disposed of in above terms.

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

SGA/-