

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.624 OF 2023

Royal Sundaram General Insurance Co. }Appellant
Ltd. } (Original
R/o. Vishranthi Melaram Towers No.2, } Opponent
3918 Rajeev Gandhi Salai (OMR), } No.2)
Karapakkam, Chennai- 600 097

V/s.

1. Kum.Deepa Sanjay Khamkar } (Original
R/at Khamkar Galli, Khanbag Sangli, } Petitioner
District-Sangli. }Original
2. Shri.Ashok Laxman Kumbhar } Opponent
R/at 355, Karal Bhag, Ankali, Taluka-Miraj, } No.1)
District-Sangli. }Respondents
3. Shri.Mahadev Vinayak Pardeshi } (Original
R/at Budhgaon, Taluka-Miraj, District- } Opponent No.1)
Sangli. }Respondents

Mr.Nikhil Mehta i/b KMC Legal Venture, for the Appellant.
 Mr.Kuldeep U. Nikam a/w Mr.Prasad Avhad, for Respondent
 No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 21st DECEMBER 2023

ORAL JUDGMENT :-

. The issue's involved in this Appeal are, there is delay
 of 4 months in filing the FIR, disability of the Claimant is

considered on higher side, attendance charges awarded on higher side and wrong application of multiplier.

2. It is contention of the learned counsel for the Appellant that, there is delay of four months in lodging the FIR, after the accident. The Tribunal has considered 100% disability of the deceased, which is not proper. The learned counsel further submitted that, while awarding compensation the Tribunal has awarded attendant charges after applying multiplier, which is not proper. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for Respondent's-Claimant's that, due to accident the Claimant has sustained 90% disability. She is bedridden, since accident. She requires attendance for doing her bath, combing, to take her to attend nature's call, to make her to sit on the wheel chair. After the accident the driver had ran away from the spot and the Claimant was under treatment due to severe injuries and she was not able to give statement, that's why there was delay in lodging the FIR. The Tribunal has passed legal and valid order, no interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Sangli.

5. It is Claimant's case that, on 22nd November 2016 the Claimant was traveling in Omni Van, she was proceeding from Sangli to Pune along with her mother, father and grandmother. When they reached near village Khodshi Omni Van dashed to the Tractor Trolley from behind. The Tractor Trolley was proceeding towards Pune. It is alleged that, the Omni Van in which the Claimant was traveling was in high speed. The driver lost control over it and dashed unknown Tractor Trolley from backside. After the accident driver of the Tractor fled away from the spot of incident. As all the occupants in the Omni Van were grievously injured, they were admitted in the hospital and the Claimant was admitted in hospital for three months. She was operated on her both legs. The implants and plates were fixed in her both legs.

6. Thereafter FIR was lodged against the driver of Omni Van. It appears from record that, after the accident the Claimant

was admitted in hospital for three months. There she was got operated on her legs. Hence, there is delay in filing FIR. Moreover, Insurance Company has not come with the defence that the occurred accident was false and fake. The driver of offending the car examined himself as DW-1 Mahadev Pardeshi at Exhibit-59, he has stated that, he along with the Claimant and her family members was proceeding towards Pune, near Karad, tractor suddenly stopped and his car brushed against trailer. Hence, he was not liable for accident, it proves about the happening of the accident. Though there is delay in filing the FIR, but as observed earlier Insurance Company has not disputed about the occurrence of accident. As well as it is contention of the learned counsel for the Insurance Company that, during that period settlement talks were going on between owner of the Omni Van and the Claimant. Considering these facts I do not find merit in the contention of the learned counsel for Insurance Company that there was delay in lodging FIR.

7. It is contention of the learned counsel for the Insurance Company that, the Tribunal has awarded

compensation on higher side. It has come on record that, the Claimant was getting Rs.11,000/- per month as salary, but the Tribunal has considered Rs.5,000/- per month, which is on lower side. Moreover, it has come on record that the Claimant has suffered 90% disability and she requires attendance for every work. The attendant has examined as PW-4 who has stated that, she assist the Claimant in her every work. Considering these facts, compensation awarded by the Tribunal is proper and no interference is required in it. Hence, I pass following order.

ORDER

- (i) The Appeal is dismissed. No order as to cost.
- (ii) The Respondents-Claimants are permitted to withdraw the amount deposited by the Appellant along with accrued interest thereon, if not withdrawn.
- (iii) The Statutory amount be transmitted to the Motor Accident Claims Tribunal, Sangli. The parties are at liberty to withdraw it, as per Rule.
- (iv) Pending Civil/Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)