

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

FIRST APPEAL NO. 1316 OF 2018

Shri. Tanaji Shankar Pati,)
 Age: 67 years, Occu: Agriculturist,)
 Now Nil, R/o. Deshinig – Haroli,)
 Tal. Kavathemahankal, Dist. Sangli)....Appellant
 (Original Claimant)

Versus

1. Shri. Rajaram Anandrao Methe)
 Age: Major, Occu: Transport,)
 R/o. H. No. 2598, Gayatri, B Ward,)
 Mangalwar Peth, Kolhapur)
 (Owner of Truck No. MH-09-L-6250))
2. The New India Assurance Co. Ltd.)
 Kolhapur, (Insurer of Truck))
 (Policy No. 151100100006960 valid)
 From 26.11.2010 to 25.11.2011))
 Summons to be served on its Br. At Mata)
 Buil, Ambedkar Road, Sangli)
3. Vilas Sambhaji Athawale)
 Age: 32 years, Occu-Driver of Truck,)
 No. MH-09-L-6250, R/o. Makad Vasahat)
 Zopadpatti, Kolhapur)
4. The Maharashtra State Road Transport)
 Corporation, Mumbai (Owner of Bus))
5. Salim Appa Aalaskar)
 Age: 43 years, Occu-Driver of Bus,)
 R/o. 255, Nalbhag, Sangli)....Respondent
 (Original Opponents)

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Mr. Tejpal S. Ingale a/w Ms. Priyanka Babar for the Appellant.
Ms. Poonam Mittal for the Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd DECEMBER, 2023.

Oral Judgment. :

1. By way of this appeal, the Appellant/Claimant is seeking enhancement of compensation.
2. It is contention of learned counsel for the Appellant that due to accidental injuries left arm of the Appellant amputated above elbow and he has received injuries to bladder and urinary track thereby restricting movements at waist joint. The Claimant is unable to do any work, there is 100% functional disability to the Claimant. Learned counsel further submitted that Claimant is Ex-Service man and he was 63 years old at the time of accident. The Tribunal has considered monthly income of the Claimant at Rs.3,000/-, it should have been more than Rs.6,000/-. Learned counsel further submitted that, the Tribunal has awarded compensation under other heads, are on lower side. Hence, requested to allow the Appeal.
3. It is contention of learned counsel for the Respondent No.2

/ Insurance Company that no evidence was produced before the Tribunal, to prove the income of the Claimant. On the basis of evidence available on record the Tribunal has considered the income of the Claimant, which is proper and no interference is required in it.

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

5. To prove the income, the claimant has examined himself at Exhibit-30. He has stated that, he was doing agriculture work, his yearly income was of Rs.1,00,000/- to Rs.1,50,000/-. Due to accidental injuries, he lost his daily wages work in the field. The 7/12 extract of the Claimant is at Exhibit-46, which shows that the Claimant was taking the crop of pomegranate. It has come on record, the Claimant was owner of four acres agriculture land. The income of Rs.3,000/- considered by the tribunal is on lower side. Considering the evidence on record, it should be Rs.4,000/-hence, I am considering monthly income of the Claimant at Rs.4000/-. The Tribunal has awarded compensation for artificial limb at Rs.45,000/-, it should be Rs.60,000/-, I am considering it Rs.60,000/-. The Tribunal has awarded compensation of Rs.29,000/- for conveyance and attendance. The claimant was admitted in hospital more than 46

km away from his village hence, I am considering Rs.40,000/- compensation for conveyance and attendance. The tribunal has not awarded compensation for loss of amenities in life. I am considering it Rs.50,000/-. The Tribunal has not awarded compensation for Special Diet and Nourishment. I am considering it Rs.20,000/-.

6. Considering above calculation, the claimant is entitled for following compensation.

Notional Monthly Income	Rs.4,000/-
Rs.4,000/- X 12	Rs.48,000/-
Rs.48,000/- X 7 Multiplier	Rs.3,36,000/-
Medical Expenses already spent (Exh. 29)	Rs.1,06,151/-
Future Medical Expenses (not awarded)	Rs.25,000/-
Pain & Sufferings & Mental Shock	Rs.60,000/-
Artificial Limb	Rs.60,000/-
Conveyance & Attendant	Rs.40,000/-
Loss of amenities for life	Rs.50,000/-
Special Diet & Nourishment	Rs.20,000/-
Total Compensation.	Rs.6,97,151/-
Compensation awarded by the Tribunal	Rs.4,72,151/-
Enhanced Compensation	Rs.2,25,000/-

The claimant is entitled for enhanced compensation of Rs.2,25,000/-.

7. In view of above, I pass following order.

ORDER

- i. Appeal is allowed.
- ii. The claimant is entitled for enhanced

compensation of Rs.2,25,000/- @ 7.5% interest along with accrued interest thereon from the date of filing claim petition till realisation of the amount.

iii. Respondent No.2 / Insurance Company shall deposit enhanced amount along with accrued interest thereon before the Tribunal within six weeks after receipt of the order.

iv. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

8. All pending applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)