

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

**FIRST APPEAL NO. 625 OF 2017
WITH
CIVIL APPLICATION NO. 3397 OF 2016
IN
FIRST APPEAL NO. 625 OF 2017**

United India Insurance Co. Ltd.)
Pune Regional Office,)
Through its Divisional Office)
Janata Shopping Centre,)
Navi Peth,)
Solapur)....Appellant
(Orig. Opponent No.2)

Versus

1. Mr. Nagnath Rohidas Sannole)
Age: 26 years, Occ: Nil)
R/o:- 143/44, Railway Line,)
Konapure Chal, Solapur.)Res.No.1
(Original Claimant)
2. The Commissioner,)
Solapur Municipal Corporation)
Solapur.)
....Respondents.

Mr. Amol Gatne for the Appellant.
Mr. R. S. Alange for the Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 22nd DECEMBER, 2023.

Oral Judgment. :

1. The issue involved in this appeal is income of the claimant is considered on higher side.

2. It is contention of learned counsel for the Appellant / Insurance Company that Tribunal has considered monthly income of the claimant at Rs.6,125/- per month, no sufficient evidence produced on record, to prove the said salary and on that basis compensation is awarded by the Tribunal, which is not proper. Learned counsel further submitted that the physical disability of the Claimant was 60% but, the tribunal has considered 100% functional disability, which is not proper. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.1/Claimant that, the Claimant was working in Betul Oil Mill Limited Company, MIDC at Solapur as a worker. The personal manager of the company was examined, to prove the income of the Claimant. He has stated that the basic salary in year 2014 of Claimant was Rs.6,125/-, on that basis the said salary is considered by the Tribunal, which is proper. Hence, no interference is required in the judgment and award passed by the Tribunal.

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

5. To prove the income of the Claimant, Claimant has examined the PW-3 Khaja Shaikh, the Personal Manager of the Company, he has stated that Claimant was working in their company and his salary in the month of February, 2014 of Rs.6,125/-. He has produced the muster roll and salary register, it is at Exhibit- 34 and 35.

6. Considering the evidence on record, the Tribunal has considered salary of Claimant at Rs.6,125/- per month. After perusal of Exhibit-34 and 35, it appears that while considering the salary of Claimant the Tribunal has not deducted HRA and Conveyance Allowance and Washing Allowance. The Conveyance Allowance is of Rs.775/- and Washing Allowance is of Rs.27/-, if it deducts from the salary, it comes to Rs.5323/-. I am considering the net salary of the Claimant at Rs.5323/-.

7. It is contention of learned counsel for the Appellant that the Claimant has suffered 60% permanent disability but, the Tribunal has considered 100% functional disability, which is on higher side. In my

view, the Claimant was working as a worker in Betul Oil Mill due to accidental injuries there is amputation of his right leg. Due to amputation of right leg, he has lost his job and he is unable to do any other work. It shows, there is 100% functional disability. I do not see merit in the contention of learned counsel for the Appellant that the Tribunal should have considered 60% permanent disability of the Claimant. The Tribunal has awarded Rs.50,000/- for pain and suffering, there is amputation of the right leg of the claimant, it should be 1,00,000/- hence, I am considering it Rs.1,00,000/-. The Tribunal has awarded amount of Rs.1,00,000/- for loss of amenities in future life, I am considering it Rs.1,50,000/-.

8. In view of above calculation, Claimant is entitled for following compensation.

Gross Salary	Rs.6,125/-
Deduction	
Conveyance Allowance	Rs.775/-
Washing Allowance	Rs.17/-
Net Salary	Rs.5,323/-
Rs.5,323/- X 12	Rs.63,876/-
Add: 50% Future Prospects	Rs.31,938/-
Total Income	Rs.95,814/-
Rs.95,814/- X 17 (Multiplier)	Rs.16,28,838/-
Reimbursement Medical Expenses	Rs.2,08,140/-

Attendance Charge	Rs.30,000/-
Pain and Suffering	Rs.1,00,000/-
Loss of amenities in life	Rs.1,50,000/-
Travelling & Misc. Expenses	Rs.17,610/-
Total Compensation	Rs.21,34,588/-
Compensation awarded by tribunal	Rs.22,45,000/-
Amount to be Refunded to Insurance Company	Rs.1,10,412/-

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

ORDER

- i. Appeal is partly allowed.
 - ii. The Appellant/Insurance Company is permitted to withdraw Rs.1,10,412/- with proportionate interest from the deposited amount.
 - iii. The claimant is permitted to withdraw the balance amount along with proportionate interest.
 - iv. The statutory amount be transmitted to the tribunal along with accrued interest thereon. The parties are at liberty to withdraw it, as per Rule.
10. All pending interim applications, if any, stand disposed off.

(SHIVKUMAR DIGE, J.)