

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1435 OF 2016**

Reliance General Insurance Co. Ltd.,)
4th Floor, Chintamani Avenue, Next to)
Virwani Industrial Estate, Goregaon)
(East), Mumbai 400 063) ...Appellant

Versus

- 1 Mohini Praful Manchalvar,)
Age 33 years, Occupation – Nil,)
Residing at 4/101, Aaditya Shaganu,)
Near D.S.K. Ranawal, N.D.O. Road,)
Bavdhan, Pune 21 and Happy Valley)
Home, Manpada, Ghodbundar Road,)
Thane (W).)
- 2 Sayed Shamsuddin Sayed Moinuddin)
Age : 45 years, Occupation :)
Business, Residing at Diggi Road,)
Umarga, Dist. - Osmanabad.)Respondents

Ms. Poonam Mital, Advocate for the Appellant.

Mr. T.J. Mendon, Advocate for Respondent No.1.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th APRIL 2023.

Oral Judgment :

1. The issues involved in this appeal are compensations awarded under the head of pain and sufferings and future medical treatment.

2. Learned counsel for the appellant submits that while awarding compensation, the Tribunal has awarded Rs.5,00,000/- lakhs for pain and sufferings and Rs.10,00,000/- for medical expenditures in future. These compensations are excessive and without any evidence on record. Hence, requested to allow the appeal.

3. It is contention of learned counsel for the respondent No.1/claimant that claimant has suffered 100% disability in the accident. She was working in a company. At the time of the accident, she was 33 year old and due to accidental injuries, she has paraplegia. She is unable to move from bed and unable to do any work without assistance of the attendant. Her life has become a living dead body. The Doctor who was examined in support of the claimant's case, has admitted that the claimant requires future medical treatment, on that basis, the Tribunal has awarded

compensation for future medical treatment which is proper and requested to dismiss the appeal.

4. I have heard both learned counsel, perused the judgment and order passed by Motor Accident Claims Tribunal, Raigad, Alibaug (for short “the Tribunal”).

5. Admittedly, the claimant met with an accident on 1st May 2009. At that time, she was 33 year old, she was doing job at Crest Recruitment Solution Company and earning Rs.11,000/- per month and she was also running private recruitment profession. Considering the evidence on record, the Tribunal has considered her notional income at Rs.6,000/- per month. To prove the disability, the claimant examined Dr. Chandrashekar Sathye. He has stated that he has noticed fractures of thoracic spine (D3 D4) with complete transection of cord with paraplegia and fracture mandible and fracture left radius and ulna. On medical examination, the doctor has also noticed that the patient is wheelchair bound and cannot walk. She has no bladder bowel control. The doctor has opined that she has complete paraplegia below the level D4. The disability certificate is at Exhibit 46. While dealing with the issue of disability of the claimant, the Tribunal has observed that the claimant has

functional disability to the extent of 100%. The Doctor has opined that the patient lost bladder and bowel control and will be confined to wheelchair or will use crutches. Such patient needs expert medical treatment. When the paraplegia patient progress from bed rest to use of a wheel chair, expert and alert attendant is also necessary. Such patient thus requires assistance of at least two attendants for his daily routine as the patient is unable to move without the help of others, and on that basis, the Tribunal has awarded compensation. I do not find any infirmity in it, as from the evidence on record, it appears that due to accidental injuries, the claimant has reduced to a vegetative state, she can never earn or enjoy her life, she would be confined to wheelchair or bed for the remaining part of her life and she will require future medical treatment. The pain suffered day by day by the claimant cannot be calculated in terms of money. Hence, there is no reason to interfere with the judgment and order passed by the Tribunal and I pass following order :

O R D E R

1. The appeal is dismissed. No order as to costs.
2. The claimant is permitted to withdraw the compensation amount deposited along with accrued interest thereon.

3. Statutory amount along with accrued interest thereon
be transmitted to the Tribunal. Parties are at liberty
to withdraw it as per Rule.
8. Pending applications, if any, stand dispose of.

(SHIVKUMAR DIGE, J.)