



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

FIRST APPEAL NO. 657 OF 2017

Sachin s/o. Daulat Salve
Age: 33 years, Occu: Nil,
R/o. Rahuri (Bk.), Tq. Rahuri,
Dist. Ahmednagar.

... Appellant
(Ori. Claimant)

Versus

1) The United India Insurance Co. Ltd.
Through its Divisional Manager,
Hotel Karam Building, 2nd Floor,
Near S.T. Stand, Sangamner,
Tq. Sangamner, Dist. Ahmednagar.

2) Daulat Vitthal Salve
Deceased Through Legal Heirs

2-A) Shobha Daulat Salve
Age: 55 Years, Occu: Household,
R/o. Rajwada, Rahuri (Bk.),
Tq. Rahuri, Dist. Ahmednagar

... Respondents
(Ori. Opponents)

...
Mr. Vinayak S. Bedre, Advocate for Appellant
Mr. Sudhir V. Kulkarni, Advocate for Respondent No.1
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 16th OCTOBER, 2024

ORAL JUDGMENT :

1. Heard.
2. Admit. Taken up for final hearing by the consent of the parties.
3. By this appeal filed under Section 173 of the Motor Vehicles Act, appellant/claimant challenges judgment and award

dated 06/12/2016, passed by the Motor Accident Claims Tribunal, Shrirampur, in M.A.C.P. No.38/2016.

4. Facts in nutshell are as follows:

On 16/07/2014, at about 08:00 a.m., appellant was standing near S.T. Stand Police Chowky at Rahuri, chitchatting with his cousin and guest. At that time, one Jeep bearing No.MH-17-AC-392 came from Shirdi side, which was being driven in rash and negligent manner and dashed appellant. In the accident appellant sustained grievous injuries to his waist, leg and other parts of the body. He was admitted to Rural Hospital, Rahuri, and thereafter at Civil Hospital, Ahmednagar. From there he was shifted to Sancheti Hospital, Pune, and was admitted there from 17/07/2014 to 08/10/2014. He, therefore, filed claim petition for compensation of Rs.10,00,000/- from respondents. After recording evidence Tribunal has awarded compensation of Rs.1,06,000/- to be paid by respondents jointly and severally along with 8% interest. Claimant is aggrieved by the quantum of compensation.

5. Heard learned advocate for appellant/claimant and learned advocate for respondent No.1 Insurance Company. Though served, none appears for respondent No.2. Perused the record.

6. Learned advocate for appellant submits that Tribunal has wrongly assessed notional income of appellant at Rs.3,000/- per month, when there is positive evidence on record of the employer of appellant that appellant was working as Supervisor and was getting

salary of Rs.8,100/- per month. Also, wrong multiplier is applied by the Tribunal thereby awarding inadequate compensation to appellant.

7. Learned advocate for respondent No.1 Insurer, on the other hand, supported the impugned judgment and award. He submits that the Tribunal has rightly assessed the income of appellant at Rs.3,000/- per month, by properly appreciating the evidence on record. According to him, no case is made out by appellant to enhance the compensation awarded by Tribunal.

8. It is a matter of record that claimant has examined his employer Anil Ambadas Shinde, Contractor, who has stated that appellant was working with him as Supervisor and he was paying Rs.300/- per day to appellant. Salary certificate issued by him is placed on record at Exhibit-25. In cross-examination, he has stated that he is ready to produce on record his contractor's license, four to five people are working with him and their record is also maintained and he was not taking signature after paying salary. He denied that during the year, for five to seven months he does not have work. He has stated that he does not have work for a month during the year.

9. Accident has taken place in the year 2014 and even unskilled worker can be said to be earning Rs.300/- per day during that period. Taking into consideration the holidays in one month, it can be held that appellant was earning Rs.8,000/- per month. Even

in view of notification published by Ministry of Labour and Employment under Section 4(1B) of the Employee's Compensation Act, 1923, in Gazette of India on 31/05/2010, the Central Government has specified minimum monthly wages of unskilled worker at Rs.8,000/- per month. Hence, the notional income of appellant needs to be assessed at Rs.8,000/- per month.

10. In view of ratio in ***Smt. Sarla Verma and Others v. Delhi Transport Corporation and Another, AIR 2009 SC 3104***, multiplier of 16 needs to be applied in the facts of the present case, as appellant was 32 years old at the time of accident.

11. Tribunal has assessed disability suffered by appellant at 25% by considering the evidence of Doctor. There is no reason to disturb the said finding recorded by Tribunal. Considering 25% disability, appellant is entitled for following compensation:-

Sr. No.	Particulars	Amount (Rs.)
1	Annual Income of appellant (Rs.8,000 x 12)	96,000/-
2	Annual Loss of income due to 25% disability (96,000 x 25%)	24,000/-
3	Total Loss of Income after applying multiplier (24,000 x 16)	3,84,000/-
4	Medical Expenses	16,000/-
5	Compensation towards pain and suffering	20,000/-
6	Compensation towards Special Diet	10,000/-
7	Compensation towards travelling expenses	10,000/-
	Total Compensation needs to be awarded (3,84,000 + 16,000 +	4,40,000/-

	20,000 + 10,000 + 10,000)	
	Compensation awarded by Tribunal	1,06,000/-
	Total Enhanced Compensation (4,40,000 - 1,06,000)	3,34,000/-

12. In the result, first appeal is partly allowed. Judgment and award passed by the Tribunal is modified to the extent that appellant is held entitled for enhanced compensation of Rs.3,34,000/-. Rest of the award is maintained.

13. Appellant to pay the deficit Court fees, as per rules.

(NITIN B. SURYAWANSHI, J.)