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

## FIRST APPEAL NO.2370 OF 2005

**Rajaram Baburao Patil**
Age-49 years,
Occupation-Agriculture & Transport,
R/o Nerli, Taluka-Karvir, District-Kolhapur. } (Org. Petitioner) **....Appellant**

*Versus*

**1. For M/s.Trupti Traders,**
Baban Shripati Kadam,
Age-Major, Occupation : Trade,
R/o. 903-B, Kind Bhavani Towers,
Acharya Adishankaracharya Marg, Pavandi, Bombay-76, J.J.T. in front of Main gate, Bombay



**2. Rajaram Bapu Devang**
Age-49 years, Occupation : Service,
R/o. Kanji Rupji Chavl, Room No.50, Haji Bundar Road, Sawree Gadi Adda, Near Surya Prakash Hotel, Sewree East, Bombay-400 015.

**3. The New India Assurance Co. Ltd.,**
Mahatma Gandhi Road, Fort,
Bombay-400 001.
(Policy Cover Note No.Bom.528424) } (Org.Opponents) **....Respondents**

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Mr.Tejpal S. Ingle a/w Ms.Priyanka Babar, for the Appellant.
Mr.Sandeep Sharad Jinsiwale, for Respondent No.3.

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**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 12th FEBRUARY 2024**

## ORAL JUDGMENT :-

. By way of this Appeal, the Appellant-Claimant is seeking enhancement of compensation.

2. It is contention of the learned counsel for the Appellant-Claimant that, due to accidental injury Appellant-Claimant has suffered 24% permanent physical disability. The Tribunal has considered Rs.10,000/- as monthly income of the Appellant-Claimant, but has not considered loss of income. The learned counsel further submitted that, amount awarded under other heads is on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for Respondent-Insurance Company that, while passing the order the Tribunal has considered all the aspects, on that basis judgment and order is passed. 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. The Tribunal has considered 25% permanent

physical disability of the Claimant. The said disability is not challenged by the Insurance Company. The Tribunal has considered monthly income of the Claimant at Rs.10,000/- per month. The said income is not challenged by the Insurance Company. While awarding compensation the Tribunal has not applied multiplier and loss of income. The Tribunal has not awarded amount for loss of amenities in life and physical pain and suffering. Hence, I am considering Rs.25,000/- for physical pain and suffering and Rs.50,000/- for loss of amenities in life. While calculating compensation the Tribunal has not applied multiplier. Considering these calculations the Appellant-Claimant is entitled for following compensation.

| **Particulars** | **Amount** |
|---|---|
| Monthly Income | Rs.10,000.00 |
| Income reduced to 24% on permanent disability<br>Rs.2400/- + Rs.600/- = Rs.3,000/- X 12 | Rs.36,000.00 |
| Multiplier Rs.36,000 X 15 | Rs.5,40,000.00 |
| Medical Expenses<br>Rs.18,000 + Rs.3260 | Rs.21,260.00 |
| Physical Pain and Suffering | Rs.25,000.00 |
| Loss of Amenities | Rs.50,000.00 |

| | |
|---|---|
| Total | Rs.6,36,260.00 |
| Less already received under award of Rs.6,36,260/- (-) Rs.1,00,000/- | **Rs.5,36,260.00** |

5. In view of above I pass following order.

**ORDER**

(i) The Appeal is allowed.

(ii) The Claimant is entitled for Rs.5,36,260/- @ 7.5% per annum from date of the filing of the Claim Petition till realization of the amount.

(iii) The Respondent-Insurance Company shall deposit the enhanced amount before the Tribunal along with accrued interest thereon within 8 weeks after receipt of this order.

(iv) The Claimant is permitted to withdraw the deposited amount alongwith interest.

(v) All pending Civil/Interim Applications are disposed of.

**(SHIVKUMAR DIGE, J.)**