

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

FIRST APPEAL NO.2237 OF 2005

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Chandrakant Manmaoth Hukire	]	
R/at 3654, Station Road, Barshi, District-	]	(Since
Solapur.	]	deceased)
	]	Thr. Lrs')
	]	(Org.
1. Smt.Dhanvanti Chandrakant Hukire	]	Claimant)
Age-60 years, Occ: Household	]	
R/at-3654, Raul Galli, Tel Girni Chowk,	]	
Barshi, At Post Taluka-Barshi, District-	]	
Solapur.	]	
	]	
2. Sau. Shilpa Atul Korpe	]	
Age-42 years, Occ c: Household	]	
R/at 'Yog Kunj' Opp. Tahasil Office, Latur,	]	
At-Post, Taluka-District-Latur	]	

...Appellants

Versus

1. The Chairman, Maharashtra State Road	]
Transport Corporation	]
Transport Bhavan, Dr.Anandrao Nair Road,	]
Bombay Central, Mumbai.	]
	]
2. Ramchandra Vodthoba Ghodke	]
Age-Adult, Occ : Service	]
R/at Barshi, S.T. Depot, Barshi, District-	]
Solapur.	]
	]
3. Mininath Sadashiv Mulik	]
Age-Adult, Occ : Business	]
R/at 104, Amrut Niwas, Kothrud,	]
Pune-411 029.	]

4. Ashok Kisan Pawar (Deleted)]
5. The New India Assurance Co. Ltd.]
Swatantryaveer Sawarkar Udyog Bhavan,]
1st Floor, Congress House Road, Near]
Balgandharve Rangmandir, Shivaji Nagar,]
Pune-411 005.] ...Respondents

Mr.Sujeet R. Bugade, for the Appellant.
Ms.P. M. Bhansali, for Respondent No.1.
Mr.Devendranath S. Joshi, for Respondent No.5.

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th MAY 2024

ORAL JUDGMENT :-

1. By way of this appeal, Appellants/Claimants are seeking enhancement of compensation.
2. It is contention of learned counsel for Appellants/Claimants that the deceased/claimant had suffered 13% permanent physical disability. After passing the judgment and order by the Tribunal, there were complications in the injury of the claimant and as a result the left leg of the claimant has to be amputated hence he has suffered 60% disability. The

Tribunal has awarded lumpsum amount of Rs.56,000/-, which is on lower side. Hence, requested to allow the Appeal.

3. Learned counsel for Respondent No. 1 and respondent No.5 submitted that the Tribunal has considered all the aspects while passing judgment and order. The leg of the claimant has been amputated after passing judgment and order, it cannot be considered as permanent disablement. Hence, requested to dismiss the appeal.

4. I have heard all learned counsel. Perused judgment and order passed by Motor Accident Claims Tribunal, Baramati (for short “the Tribunal”).

5. The Claimant had filed claim petition before the Tribunal claiming that due to accidental injuries he has suffered 13% permanent physical disability. The disability certificate is at Exhibit-48. The said disability is not challenged by the Respondent No.1 and Respondent No.5.

6. Considering evidence on record, the Tribunal has awarded Rs.56,000/- compensation to the Claimant. The Tribunal has fixed 20% liability on Respondent Nos.1 and 2 and 80% liability of payment of compensation on Respondent

No.5/Insurance Company. During pendency of this appeal, the claimant has filed Civil Application No.4845 of 2011 before this Court mentioning that after passing judgment and order by the tribunal dated 17th November, 2004, there was complications in the injury of the Claimant and his left leg has been amputated and he has suffered 60% permanent physical disability. Therefore, he is entitled for future loss of income to the tune of Rs.6,00,000/-, by said application, the applicant sought permission to carry out amendment. This Court (Coram: Dr. Shalini Phansalkar, J) by order dated 30th August, 2018 has allowed the application and permitted to carry out the amendment. During pendency of the appeal, the claimant is died. The question remains, as the claimant is no more, can this matter be ramanded for fresh hearing. In my view, matter cannot be remanded for fresh hearing as the claimant is no more. It appears from record that left leg of the claimant is amputated after passing judgment and order by the Tribunal hence, I am inclined to allow Rs.2,00,000/- to the claimants as lumpsum compensation, out of it Rs.40,000/- shall be paid by Respondent Nos.1 and 2 and remaining amount of

Rs.1,60,000/- be paid by Respondent No.3 and 5 as fixed by the Tribunal.

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

ORDER

- i. Appeal is allowed.
 - ii. The claimants are entitled for Rs.2,00,000/- @ 7.5% interest per annum from the date of filing of claim petition, till realisation of the amount.
 - iii. The Respondent Nos.1 & 2 and Respondent Nos.3 and 5 shall deposit the enhanced amount along with interest as per the share fixed by the tribunal i.e. 20% and 80% within eight weeks after receipt of the order of this Court.
 - iv. The claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
 - v. The claimant shall pay deficit Court fees on enhanced amount,if any, as per Rule.
8. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)