

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

FIRST APPEAL NO.1859 OF 2010

Sou. Rani Jayant Bhangire	}	
Age-31 years, Occ ; Tailoring	}	
R/o. 3900, Bhavani Peth Barshi, Taluka	}	
Barshi, District-Solapur	}	Appellant (Org. Claimant)

Versus

1. Mr.Dhananjay Chandrasen Deshmukh	}	
Age-Adult, Occ : Business	}	
R/o. Barshi Road, Latur	}	
2. The New India Assurance Co. Ltd.,	}	
Summons be served on Branch Manager,	}	
Hutatma Complex, Park Chowk, Solapur.	}	
3. Sitabi Ram Chavan	}	
Aged-Adult, Occ : Household	}	
3B Suresh Ram Chavan	}	
Age-Adult, Occ : Labour	}	
3C Arun Ram Chavan	}	
Age : Adult, Occ : Labour	}	
(3A to 3C) All R/o Hangrul Pati-12,	}	(Org. Respondents)
Latwar Taluka & District Latur	}	Respondents

Mr.R.S. Alange, for the Appellant.
Ms.Poonam Mital, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th FEBRUARY 2024

ORAL JUDGMENT :-

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

2. It is contention of the learned counsel for the Appellant-Claimant that, due to accidental injuries Claimant has suffered 35% permanent physical disability. The Claimant was earning Rs.4,500/- per month as she was taking tuition and she was doing tailoring work, but Tribunal has not considered her monthly income while calculating compensation and has awarded lumpsum amount of Rs.35,000/-, which is on lower side. The learned counsel further submitted that, the Tribunal has awarded compensation on lower side under non-pecuniary heads, it be awarded and requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, while passing judgment and order the Tribunal has considered all the aspects. The order passed by the Tribunal is legal and valid. 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), Solapur.

5. The disability of 35% suffered by the Claimant is not challenged by the Respondent-Insurance Company. To prove the income, the Claimant examined herself. She has stated that she used to conduct private tuition and used to do tailoring work at her house. She was getting Rs.3,000/- to Rs.3,500/- per month from tuition classes and Rs.1,000/- to Rs.1,200/- from tailoring work.

6. While dealing with the issue of income the Tribunal has observed that, no evidence was produced on record to prove that the Claimant was taking tuition and she was doing tailoring work, hence the Tribunal has awarded lumpsum amount of Rs.35,000/- on account of the disability and Rs.18,000/- on account of the loss of income during that period. I am unable to understand the observations of the Tribunal as the Claimant has stated that, she was taking tuition and she was doing tailoring work. In my view, there is no reason to disbelieve the evidence of the Claimant. She has mentioned her occupation as tailoring in

her Claim Petition. Hence, I am considering the monthly income of Claimant at Rs.4,000/- per month. The Tribunal has not awarded future prospects. The Claimant is entitled for future prospects. The Tribunal has awarded Rs.5,000/- for pain and suffering. Considering the disability, I am considering at Rs.25,000/-. The Tribunal has awarded Rs.5,000/- for diet and transport, it should be Rs.25,000/-. The Tribunal has awarded attendance charges Rs.1,000/-, I am considering at Rs.15,000/-. The Tribunal has not awarded compensation for loss of amenities in life. I am considering it at Rs.50,000/-.

7. Considering the above calculations the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.4,000.00
Annual Income (Notional Income X 12 months)	Rs.48,000.00
(+) Future Prospects (40% - Age 25 Yrs)	(+) Rs.19,200.00
Annual Income After Future Prospects	Rs.67,200.00
Multiplier (18)	Rs.12,09,600.00
Medical Bills	Rs.77,400.00
Pain and Suffering	Rs.25,000.00

Loss of Amenities in life	Rs.50,000.00
Diet and Transport Allowances	Rs.25,000.00
Attendance Charges	Rs.15,000.00

	Rs.14,02,000.00
Awarded Amount	(-) Rs.1,41,400.00
Enhanced Amount	Rs.12,60,600.00

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimant is entitled for enhanced compensation of Rs.12,60,600/- @ 7.5% per annum from the date of the filing of Claim Petition till realization of the amount.
- (iii) The Respondent-Insurance Company shall deposit enhanced amount within six week after receipt of the order.
- (iv) The Claimant is permitted to withdraw the deposited amount alongwith interest.
- (v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)