# IN THE HIGH COURT OF JUDICATURE AT BOMBAY

## CIVIL APPELLATE JURISDICTION

## FIRST APPEAL NO. 2235 OF 2007

| | | |
|---|---|---|
| | Anjali Prashant Ravan<br>Age : 42, Occu.- Medical Practitioner<br>R/o. Dighanchi, Tal. Atpadi, Dist. Sangli | Appellant<br>(Orig.<br>… Claimant) |
| | Versus | |
| 1 | Prashant Gangadhar Ravan<br>Age : 54, Occu.- Owner / businessman.<br>R/o. Dighanchi, Tal. Atpadi, Dist. Sangli | |
| 2 | The New India Assurance Co. Ltd.<br>Kamgar Bhavan, Sangli | |
| 3 | Nitin Uday Honrao<br>Age : 32, Occ. -Driver<br>R/o. Dighanchi, Tal. Atpadi, Dist. Sangli | Respondents<br>(Orig.<br>… Opponents) |

## WITH
## FIRST APPEAL NO. 270 OF 2009

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|---|---|---|
| | The New India Assurance Co. Ltd.<br>Kamgar Bhavan, Sangli | … Appellant |
| | Versus | |
| 1 | Anjali Prashant Ravan<br>Age : 40, Occu.- Medical Practitioner<br>R/o. Dighanchi, Tal. Atpadi, Dist. Sangli | |
| 2 | Prashant Gangadhar Ravan<br>Age : 52, Occu.- Owner / businessman.<br>R/o. Dighanchi, Tal. Atpadi, Dist. Sangli | |
| 3 | Nitin Uday Honrao<br>Age : 30, Occ. -Driver<br>R/o. Dighanchi, Tal. Atpadi, Dist. Sangli | … Respondents |

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Mr. Tejpal S. Ingale, Advocate for the Appellant in FA/2235/2007 and for Respondent No.1 in FA/270/2009.
Ms. Shalini Shankar, Advocate for Respondent No.2 in FA/2235/2007.
Ms. Poonam Mital, Advocate for Appellant in FA/270/2009.

**CORAM : SHIVKUMAR DIGE, J.**
**DATE : 28th MARCH, 2024.**

**ORAL JUDGMENT :**

**1.** This appeal is preferred by the appellant/claimant for enhancement of compensation. The respondent No.2. -Insurance Company has also preferred appeal challenging the Judgment and Order passed by the Motor Accident Claims Tribunal, Sangli (for short "**the Tribunal**") as the appeal and cross appeal are against the same Judgment and Order, I am deciding it by this common Judgment.

**2.** It is contention of learned counsel for the appellant/claimant that claimant is B.A.M.S. doctor. Due to accidental injuries, she has suffered 50% permanent physical disability. After the accident she is unable to do her practice with full potential. The Tribunal has considered her monthly income at Rs.10,000/- which is on lower side. The Tribunal has not awarded future prospectus and the compensation awarded under other heads are on lower side, hence requested to allow the appeal.

**3.** It is contention of learned counsel for respondent No.2/Insurance Company that the Tribunal has considered monthly income of claimant at Rs.10,000/- which is on higher side without any evidence on record. She further submitted that the claimant was suffering from Asthma before the accident, it has effected on her lung capacity but this fact is not considered by the Tribunal and has awarded compensation on higher side, hence requested to allow the appeal filed by respondent No.2/ Insurance Company and dismiss the appeal filed by the claimant.

**4.** I have heard both the learned counsel. Perused the Judgment and Order passed by the Tribunal. Admittedly, due to accidental injuries the claimant has suffered 50% permanent physical disability. To prove the disability, the claimant has examined four doctors. The respondent No.2/Insurance Company has not challenged the disability of the claimant. The Tribunal has considered monthly income of the claimant at Rs.10,000/- per month. To prove the income claimant has examined herself. She has stated that she is B.A.M.S. doctor, she runs hospital, her income is more than Rs.10,000/-. In my view, as the claimant is B.A.M.S. doctor, the income considered by the Tribunal is proper. While awarding compensation, the Tribunal has considered future loss @Rs.15,000/-. It has come on record that after the accident the claimant has continued her work, hence I am considering 50% future prospects out of total future prospects.

**5.** It is contention of learned counsel for respondent No.2/Insurance Company that claimant was already suffering from Asthma hence Tribunal should not have considered her disability. In my view, it has come in the doctor's evidence that due to accident, there was contusion to lung of the claimant because of that she has breathing problem and there was 50% reduction of lung capacity. So it cannot be said that it was due to Asthma. As the claimant has suffered 50% permanent physical disability, I am considering her income at Rs.5,000/- per month. The Tribunal has awarded Rs. 25,000/- for pain and suffering. Considering the disability and as three surgeries have been performed on the claimant, I am considering it Rs.75,000/-. The Tribunal has not given compensation for loss of amenities in life, I am considering it at Rs.50,000/-. The Tribunal has given amount for loss of expectation in life at Rs.25,000/-, I am considering it Rs.50,000/-. The Tribunal has awarded Rs.10,000/- for conveyance, I am considering it at Rs.25,000/-, as the claimant was shifted to various hospitals. The Tribunal has not awarded compensation for attendant. I am considering it Rs.25,000/-. The Tribunal has not awarded compensation for future medical expenses. Considering the nature of injuries, I am considering it Rs.25,000/-. The Tribunal has not awarded compensation for special diet, I am considering it Rs.25,000/-.

**6.** Considering the above calculations, the claimant is entitled for following compensation.

| **Particulars** | **Rs.** | **Entitlement** |
|---|---|---|
| Monthly Income | Rs. | 5,000.00 |
| Annual Income (5,000 X 12) | Rs. | 60,000.00 |

| | | |
|---|---|---|
| Future prospects 50% (taken 50% of Rs.24,000) | Rs. | 12,000.00 |
| Multiplier Rs. 72,000 X 15 | Rs. | 10,80,000.00 |
| Medical Bills | Rs. | 17,000.00 |
| Conveyance | Rs. | 25,000.00 |
| Pain and Suffering | Rs. | 50,000.00 |
| Loss of income considered for 3 months under medical treatment | Rs. | 30,000.00 |
| Attendant | Rs. | 25,000.00 |
| Future Medical Expenses | Rs. | 25,000.00 |
| Special Diet and Nourishment | Rs. | 25,000.00 |
| Loss of amenities of life | Rs. | 50,000.00 |
| **Total** | Rs. | **13,27,000.00** |
| Less compensation awarded by the Tribunal | Rs. | 3,39,000.00 |
| **Total enhanced amount** | Rs. | **9,88,000.00** |

Considering the above calculations, the claimant is entitled for enhanced compensation of Rs.9,88,000/-.

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

**<u>ORDER</u>**

**i.** First Appeal No. 2235 of 2007 is allowed.

**ii.** First Appeal No. 270 of 2009 is dismissed.

**iii.** The claimant is entitled for enhanced amount of Rs.9,88,000/- @7.5%. interest per annum from the date of filing of claim petition till realisation of the amount.

**iv.** The respondent No.2-Insurance company shall deposit the enhanced amount along with accrued interest thereon within 8 weeks from the receipt of this order.

**v.** The claimant is permitted to withdraw the deposited amount along with accrued interest thereon.

**vi.** The claimant shall pay deficit Court fees for enhanced amount if any as per rule.

**8.** The appeal is disposed of. All pending applications, if any also disposed of.

**(SHIVKUMAR DIGE, J.)**

SONALI SATISH KILAJE Digitally signed by SONALI SATISH KILAJE Date: 2024.04.26 12:47:49 +0530