IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

FIRST APPEAL NO. 104 OF 2001

1. Nitin Vasantrao Wagh)
Aged: 21 years, Occu: Education.)
R/o 41, G. G. O. Colony, Sainik Nagar,)
Sadar Bazar, Satara.)
….Appellant

Versus

1. Himmatsingh Putrashri Sardar Bhagatsingh,)
Aged: Major , Occu: Driver, r/o Ghavani,)
District: Rahak haryana, State,)
Driving Licence No. 3530/65072;)

2. Nagachar K.)
Aged: Major, Occu: Business,)
R/o. K. R. Extn. Hoskote, District: Bangolore)

3. The Oriental Insurance Co. Ltd.)
Through Divisional Manager,)
Satara Division, Satara.)
….Respondents

Mr. Harshal P. Nahata, Advocate for the Appellant.
Mr. Saumen Vidyarthi a/w Ms. Ishita Bhole and Mr. Mohit Turakhia i/b Mr. Saumen Vidyarthi, Advocate for the Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd FEBRUARY, 2024.

<u>Oral Judgment. :</u>

1. By way of this appeal, the Claimant is seeking enhancement of compensation.

2. It is contention of learned counsel for the Appellant that the Claimant has suffered 50% permanent physical disability due to accidental injuries but, the Tribunal has awarded compensation on lower side. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent No.3/Insurance Company that while awarding compensation the Tribunal has considered all the aspect as well as the Claimant was student and on that basis, compensation is awarded, which is proper. No interference is required in it.

4. I have heard both learned counsel. Perused judgment and order passed by the Motor Accident Claims Tribunal, Satara (for short "the Tribunal").

5. Admittedly, the Claimant has suffered 50% permanent physical disability due to accidental injuries. The Respondent No.3/Insurance Company has not challenged this fact. Hence, I am considering 50% permanent physical disability. While calculating compensation, the Tribunal has not considered monthly income of the Claimant. At the time of accident, the Claimant was Commerce Graduate and he was state level cyclist and he was typist. To prove the income of the Claimant he examined himself. Considering evidence on record, the Claimant was B.com graduate and he was state level cyclist and he was typist and accident occurred in year 1993, I am considering notional monthly income of the Claimant at Rs.4,500/- per month. At the time of accident, the Claimant was 21 years old, the proper multiplier is 18. Tribunal has not awarded future prospects. The Claimant is entitled for future prospects. The Tribunal has awarded Rs.50,000/- for loss of amenities in life, I am considering Rs.50,000/- more. The Tribunal has not awarded compensation for special diet hence, I am considering 25,000/- for special diet and Rs.25,000/- for conveyance and

Rs.5,000/- for attendant.

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

Monthly income	Rs.4,500/-
Annual Income (Rs.4,500/- X 12)	Rs.54,000/-
Multiplier 18 (Rs.54,000/- X 18)	Rs.9,72,000/-
Add: Loss of future prospects: 50% of the loss of income	Rs.4,86,000/-
Pain and suffering	Rs.1,00,000/-
Loss of Amenities	Rs.1,00,000/-
Loss of special diet	Rs.25,000/-
Loss of conveyance	Rs.25,000/-
Attendant charge	Rs.5,000/-
Total compensation	Rs.17,17,068/-
Less awarded by the Tribunal	Rs.1,49,068/-
Enhanced amount	**Rs.16,17,932/-**

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

ORDER

i. Appeal allowed.

ii. The claimant is entitled for enhanced amount of Rs.16,17,932/- @ 7.5% interest per annum from filing claim petition, till realisation of the amount.

iii. The Respondent/Insurance Company shall deposit the enhanced amount along with accrued interest thereon, within six weeks after receipt of the order.

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

8. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)