

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**FIRST APPEAL NO. 2164 OF 2006**

|                                                                                                                   |      |                                  |
|-------------------------------------------------------------------------------------------------------------------|------|----------------------------------|
| Sandip Bandu Patil<br>22 years, Occ : Education,<br>r/o. Kate Bhogaon, Tal : Panhala, Dist.Kolhapur.              | ...  | Appellant<br>(Orig. Applicant)   |
| versus                                                                                                            |      |                                  |
| 1. Kuber Bhimu Donage<br>Major, Occu : Transport<br>r/o. Plot No.24, Mukta Sainik Vasahat,<br>'E' Ward, Kolhapur. |      |                                  |
| 2. The New India Assurance Co. Ltd.<br>334-E Ward, Trade Centre, Station Road,<br>Kolhapur.                       | .... | Respondents<br>(Orig. Opponents) |

Mr. Jayant Bardeskar, Advocate for the Appellant.

Ms. Shalini Shankar, Advocate for Respondent No.2.

**CORAM : SHIVKUMAR DIGE, J.**

**DATE : 8<sup>th</sup> FEBRUARY, 2024.**

**Oral Judgment :**

1. By way of this appeal, the appellant/claimant is seeking an enhancement of compensation.

2 It is contention of learned counsel for the appellant/claimant that at the time of the accident, the claimant was 19 year old student. The Tribunal has considered his notional income at Rs.15,000 per annum which is on lower side. Learned counsel further submitted that due to accidental injuries, the claimant has lost vision of both eyes and his left hand is amputated. The claimant has suffered 100% disability but the

Tribunal has not considered this fact and has awarded compensation on lower side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.2- insurance company that while passing order, the Tribunal has considered all the aspects, and on that basis, judgment and award is passed. No interference is required in it.

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

5. Admittedly, due to the accidental injuries, left-hand of the claimant is amputated, and he has lost vision of both eyes, The claimant has suffered 100% physical disability. At the time of the accident, the claimant was 19 year old, and he was a student. Hence the Tribunal has considered his notional income at Rs.15,000/- per annum. In my view, it is on lower side. Hence, I am considering Rs.6000/- per month as notional income of the claimant.

The Tribunal has not awarded compensation for attendance charges, special diet, pain and suffering, loss of amenities, prosthetic arm/future medical expenses, loss for disfigurement, loss of enjoyment of life and loss of marriage prospects. Learned counsel further submitted that, at present, the claimant is about 42 year old, but due to permanent disability, he could not marry, but this fact is not considered by the Tribunal.

Considering the above calculations, the claimant is entitled for following compensation :

| Particulars                                              | Amount         |
|----------------------------------------------------------|----------------|
| Annual Notional Income (Rs.6000/- pm x 12)               | Rs. 72000.00   |
| 40% future prospects                                     | Rs. 28800.00   |
| Total                                                    | Rs. 100800.00  |
| Rs.100800/- x 17(multiplier)                             | Rs. 1713600.00 |
| Medical expenses                                         | Rs. 98850.0    |
| Nursing                                                  | Rs. 25000.00   |
| Attendant Charges                                        | Rs. 25000.00   |
| Special Diet                                             | Rs. 25000.00   |
| Pain and Suffering                                       | Rs. 200000.00  |
| Loss of Amenities                                        | Rs. 200000.00  |
| Prosthetic arm/future medical expenses                   | Rs. 1000000.00 |
| Loss for disfigurement                                   | Rs. 200000.00  |
| Loss of enjoyment of life and loss of marriage prospects | Rs. 500000.00  |
| Total Compensation                                       | Rs. 3987450.00 |
| (less) Compensation granted by Tribunal                  | Rs. 250000.00  |
| Enhanced Amount                                          | Rs. 3737450.00 |
| Less : 50% Contributory Negligence                       | Rs. 1868725.00 |
| Entitled Compensation                                    | Rs. 1868725.00 |

,

The claimant is entitled for Rs.18,68,725/-.

Learned counsel for the appellant/claimant submitted that the claimant is not challenging the 50% contributory negligence fixed on him.

6. In view of above, I pass the following order :

**ORDER**

1. The appeal is allowed.
2. The appellant/claimant is entitled for enhanced compensation of Rs. 18,68,725/- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. The respondent No.2-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from receipt of this order.
4. The claimant is permitted to withdraw the enhanced amount along with accrued interest thereon.
7. Pending applications, if any, stand disposed of.

**(SHIVKUMAR DIGE, J.)**