

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1641 OF 2008**

Mahendra Vasant Patil Age: 37 years, Occupation: Service, R/o. Maan, Tahsil: Shahuwadi, District: Kolhapur	...	Appellant
versus		
1. Raju Tukaram Anute, Age: Adult, R/o. Kotoli, Taluka: Shahuwadi, District: Kolhapur 2. Arjun Ganpati Mokashi Age: Adult, R/o. - do- 3. The New India Assurance Co. Ltd. Lodh Building, Shahupuri 2 nd Lane, Kolhapur.		Respondents

Mr. Sangram Singh Yadav, Advocate for the Appellant.

Mr. Devendranath S. Joshi h/f Mr. Indrajeet R. Kulkarni, Advocate for the Respondent No.3.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th MARCH, 2024.

Oral Judgment. :

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

Digitally
signed by
SHUBHADA
SHANKAR
KADAM
Date:
2024.03.30
11:18:21
+0530

SHUBHADA
SHANKAR
KADAM

2. It is contention of learned counsel for the appellant-claimant that due to accidental injuries, the claimant has suffered 28% permanent physical disability but while awarding compensation, the Tribunal has awarded future prospects on lower side. Learned counsel further submitted that the Tribunal has awarded compensation for future medical expenses, loss of pain and sufferings and loss of amenities in life on lower side. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.3- Insurance Company that, after the accident, the claimant was continued in service, so there is no question of actual loss of income of the claimant and his income was increased. The Tribunal has considered all the aspects while passing the judgment and order and, no interference is required in it.

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

5. The Tribunal has considered the monthly income of the claimant at Rs.5,000/-. There is no dispute about 28% permanent physical disability of the claimant. While awarding compensation, the Tribunal has awarded future prospects at Rs.25,000/- which is on lower side. As per the view of Hon'ble Apex Court in the case of **National Insurance Co. Ltd. vs. Pranay Sethi , 2017 ACJ 2700(SC)**, the claimant

is entitled for 40% future prospects, which comes to Rs.1,07,520/-. It includes promotional avenues, which the claimant is deprived of, due to permanent physical disability.

5.1. The Tribunal has awarded Rs.10,000/- for future medical expenses, I am considering additional Rs.10,000/- for future medical expenses. The Tribunal has awarded Rs.10,000/- for pain and sufferings. As the claimant has suffered 28% permanent physical disability, I am considering additional Rs.10,000/- for pain and sufferings. The Tribunal has not awarded compensation for loss of amenities in life, I am considering it at Rs.25,000/-.

5.2. Considering the above calculations, the claimant is entitled for enhanced amount of Rs.1,52,520/-.

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

ORDER

1. The appeal is allowed.
2. The claimant is entitled for enhanced compensation of Rs. 1,52,520/-@ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. Respondent No.3-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.
4. The claimant is permitted to withdraw the enhanced amount along with accrued interest thereon.

5. The claimant shall pay court fees on enhanced amount as per Rule.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)