

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.956 OF 2023

Mr.Uday Krishna Mane }
Age-47 years, Occ : Service & Agriculture }
R/at Kotbhag, Walwa, Taluka-Walwa, }
District-Sangli } **...Appellant**

Versus

1. The New India Assurance Co. Ltd. }
Having Its Office at 513, Jeevan Tara, LIC }
Building, In front of Collector Office, Satara, }
District-Satara. }

2. Ankush Namdev Godase }
Age-53 years, Occ. Car Owner }
R/at Diskal, Tal. Khatav, District-Satara }

3. Vinayak Subhash Bhosale }
(Since deceased through Legal Heirs) }
3a. Subhash Rajaram Bhosale }
Age-62 years }
3b. Vaibhav Subhash Bhosale }
Age-32 years, }
Both R/at Walwa (Malbhag), Taluka-Walwa, }
District-Sangli. } **...Respondents**

Mr.Bhushan Walimbe a/w Mr.Parth Modak, for the Appellant.
Ms.Poonam Mital, for Respondent No.1.
Mr.Laxman Kalel, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 7th MARCH 2024

ORAL JUDGMENT :-

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

2. It is contention of the learned counsel for the Appellant-Claimant that due to accidental injuries the Claimant has suffered 75% permanent physical disability and his right leg is amputated below knee. The Claimant was working as Manufacturing Chemist at Hutatma Sugar Factory. While awarding compensation the Tribunal has not awarded future prospects. The Tribunal has not awarded amount for cost of artificial leg. The Tribunal has not awarded amount for loss of amenities in life. The Tribunal has awarded compensation for loss due to disability and disfigurement. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, after the accident the Claimant has been continued in service, so there is no loss of

income to the Claimant. 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 judgment and order passed by the Motor Accident Claims Tribunal ('The Tribunal' for short), Sangli.

5. Admittedly, the Claimant has suffered 75% permanent physical disability due to accidental injuries his right leg is amputated below knee. While awarding compensation the Tribunal has not awarded future prospects. The Tribunal has considered yearly income of the Claimant at Rs.2,40,000/-. As per view of the Hon'ble Apex Court in the case of ***National Insurance Co. Ltd. V/s. Pranay Sethi¹***, the Claimant is entitled for 40% future prospects, hence, I am considering 40% future prospects. It comes to Rs.96,000/-. The Tribunal applied multiplier of 14. It applies to Rs.96,000/- x 14, it comes to Rs.13,44,000/-. The Tribunal has awarded Rs.10,75,000/- for prosthetic leg, the Tribunal has considered on the basis of 5

1 2017 ACJ 2700 (SC)

years. The prosthetic leg is required to be change for every 5 years. Hence, I am considering additional amount of Rs.4,80,000/-. The Tribunal has not awarded compensation for loss of amenities in life. Hence, I am considering Rs.2 lakh. The Tribunal has not awarded amount for disfigurement, I am considering it Rs.1 lakh. Considering the above calculations, the Claimant is entitled for following amount.

Particulars	Amount
Monthly Income Rs.20,000 x 12	Rs.2,40,000.00
Loss of Future Prospects (40%) Rs.96,000.00 X 14	Rs.13,44,000.00
Enhancement in artificial leg amount	Rs.4,80,000.00
Special Diet	Rs.25,000.00
Loss of Amenities	Rs.1,00,000.00
Disability of Disfigurement	Rs.50,000.00
Total Compensation Payable	Rs.19,99,000.00

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimant is entitled for enhanced compensation of Rs.19,99,000/- @ 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 weeks, from the receipt of this order.

(iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.

(v) The Claimant shall pay Deficit Court Fees on enhanced amount.

(vi) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)