

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

FIRST APPEAL NO.345 OF 2004

1. Mrs.Revati Abhijeet Khurd }
 Since deceased Thr. Her heirs and legal }
 representative }
1A. Shri.Abhijeet Sharad Khurd }
 Age-44 years, Occupation : Service }
2. Kumari Damini Abhijeet Khurd }
 Age-19 years, Occupation : Education, }
 R/at 27, Samruddhi, Saikrupa Housing }
 Society, Shridharnagar, Dhankawadi, }
 Pune-411 043. }
 (Amended as per Court's Order dated }
 3/8/2016, passed in CAST No.14030/16) }

....Appellants
 (Heirs and Lrs of
 Original
 Appellant)

NILAM
SANTOSH
KAMBLE

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Versus

1. Mumtax Ahmed Khan, }
 Occupation : Business }
 At Vashi Petroleum Centre, Sector No.9, }
 New Mumbai. }
2. Oriental Insurance Co. Ltd. }
 54, Progress House, Pune Mumbai Road, }
 Shivajinagar, Pune }

....Respondents
 (Original
 Opponents)

Shri.Uday B. Nighot, for the Appellants.
 Ms.Poonam Mital, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 18th JANUARY 2024

ORAL JUDGMENT :-

. By way of this Appeal, the Appellant's-Claimant's is seeking enhancement of the compensation.

2. It is contention of the learned counsel for the Appellant's-Claimant's that, the Claimant has suffered 50% permanent physical disability due to accidental injuries. Two doctors were examined to prove disability of the Claimant. At the time of the accident Claimant was working as a Telephone Operator-Cum-Typist in Worldwide Oilfield Machine Private Limited Company and was getting Rs.3,000/- per month as a salary, but the Tribunal has awarded compensation of Rs.10,000/- by way of token, which is not proper. The learned counsel further submitted that, the Tribunal has awarded compensation on lower side under other heads. The learned counsel further submitted that, future prospects are not awarded, it be awarded. Hence, requested to allow the Appeal.

3. It is contention of the learned counsel for the Respondent-Insurance Company that, the Tribunal has

considered all the aspects and on that basis judgment and award is passed, hence, 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), Pune.

5. It is Claimant's case that, due to accidental injuries the Claimant has suffered 50% permanent disability. To prove the disability the Claimant's have examined P.W.-2 Dr.Sandeep Parkh. He has stated that due to head injuries caused in accident to the Applicant, her brain was affected and still she is taking treatment. The certificate is at Exhibit-47. This certificate shows that, the Claimant is suffering from memory lapses and judgmental lapses, due to which she is unable to carry on any official business. To support the Claimant's case the Claimant has examined P.W.-3 Dr.Ravindra Lokhokare. He has stated that, the Claimant is physically handicapped due to the injuries and haemorrhagic contusion at right temporoparietal area, multiple abrasions on face, and contused lacerated wounds on both knees. He further stated that the Claimant has suffered 50% permanent

disability.

6. It is Claimant's case that, Claimant was working as Telephone Operator Cum Typist in Worldwide Oilfield Machine Private Limited Company and she was getting salary of Rs.3,000/- per month. To prove the income of the Claimant PW-1 Abhijit husband of the Claimant is examined, he has produced the letter of company showing salary of the Claimant, which is at Exhibit-21. Considering the evidence on record the Tribunal has observed that, the Claimant is entitled to get compensation of Rs.10,000/- by way of token. I am unable to understand the observations of the Tribunal as it has come on record that, the Claimant has suffered 50% permanent physical disability. She has lost her job and she is unable to do any work. The Claimant has suffered memory lapses and judgmental lapses. It has come on record that, the Claimant was getting salary of Rs.3,000/- per month. Hence, I am considering the salary of the Claimant at Rs.3,000/- per month. She is entitled for future prospects. The Tribunal has awarded amount of Rs.20,000/- for pain and suffering. Considering the nature of disability of the Claimant, I

am considering it Rs.1 lakh. The Tribunal has awarded Rs.5,000/- for conveyance, I am considering at Rs.25,000/-. The Tribunal has considered Rs.5,000/- for special diet, I am considering Rs.25,000/-. The Tribunal has awarded Rs.10,000/- for loss of amenities in life. I am considering it Rs.1 lakh.

7. Considering above calculation's the Claimants are entitled for following compensation.

Particulars	Amount
Monthly Income	Rs.3,000.00
40% Future Prospects	Rs.1,200.00
Total Monthly Income	Rs.4,200.00
Annual Income Rs.4200 x 12	Rs.50,400.00
Rs.50,400 X 17 (Multiplier)	Rs.8,56,800.00
Permanent Disability 50%	Rs.1,50,000.00
Medical Expenses	Rs.1,17,000.00
Pain and Suffering	Rs.1,00,000.00
Conveyance	Rs.25,000.00
Special Diet	Rs.25,000.00
Loss of amenities	Rs.1,00,000.00
Total compensation	Rs.13,73,000.00
Less Compensation awarded by the Tribunal	(-)Rs.2,17,273.00
Enhanced Compensation	Rs.11,55,727.00

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

ORDER

- (i) The Appeal is allowed.
- (ii) The Claimants are entitled for enhanced amount of Rs.11,55,727/- @ 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 alongwith interest within eight weeks after receipt of this order.
- (iv) The Claimants are permitted to withdraw the deposited amount alongwith interest.
- (v) All pending Civil and Interim Applications are disposed of.

(SHIVKUMAR DIGE, J.)