

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.249 OF 2016

1	Manik Sampatrao Patil Since deceased by Lrs.No.1A to IE 1(a). Kusum Manik Patil, Age : 55 years, Occ: Household, 1(b).Swapnil Manik Patil, Age : 29 years, Occ: Service, 1(c).Akshay Manik Patil, Age: 26 years, Occ: Agriculture, No.1(a) to 1(c) R/o.Karoli (T), Tal. Kavthemahankal, Dist. Sangli.- 416405. 1(d).Jayshri Dipak Mohite, Age : 35 years, Occ: Household, R/o: Manjarde, Sangli-416312. 1(e).Sadhana Mangesh Pawar, Age : 32 years, Occ.; Household, R/o.: Gujar Mala, Manerajuri, Tal.Miraj, Dist. Sangli-416408.	...Appellants (Orig. Claimants)
	versus	
1	Dhanshri Vilas Abdagire, Age – Major, Occ. Transport, R/o.House No.54, Khanbhag, Old Police Line, Sangli.	
2	National Insurance Co. Ltd., Vakharbhag, Sangli.	
3	Sachin Raosaheb Mudshinge, Age – 30 years, Occ. Driver, R/o.421/2, Laxminarayan Colony, 1st Lane, 100 ft. Road, Sangli. (FA stands dismissed as against Respondent No.3 vide order dated 8th January 2019.)	...Respondents

Mr. Tejpal S. Ingale along with Ms. Priyanka Babar, Advocate for the Appellants.

Ms. Poonam Mital, Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 13th FEBRUARY, 2024.

Oral Judgment :

1. By way of this appeal, the appellant/claimant is seeking enhancement of compensation. It is contention of learned counsel for the appellant/claimant that due to accidental injuries, the claimant has suffered 35% permanent physical disability but the Tribunal has considered it 5%, which is on lower side. Learned counsel further submitted that the Tribunal has awarded compensation on lower side. Hence, requested to allow the appeal.

2. It is contention of learned counsel for Respondent No.2- Insurance Company that while passing the order, the Tribunal has considered all the aspects and, on that basis, judgment and order is passed. No interference is required in it.

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

4. It is claimant's case that due to accidental injury, he has suffered 15% permanent disability and his functional disability is 35%. To prove the disability, the claimant has examined Dr. Eden at Exhibit-45

who gave treatment to him and issued disability certificate. It has come in the evidence of the Doctor that due to accidental injuries, the disability of the claimant is 10 to 15% but functional disability would be 35%. It has come on record that the claimant was admitted in the hospital for 18 days and 3 days in another hospital. While awarding compensation, the Tribunal has awarded Rs.5,000/- for loss of amenities and expectation in life. In my view, it is on lower side, it should be 25,000/-. The Tribunal has awarded an amount of Rs.10,000/- for special diet, attendance and transport, I am considering it at Rs.25,000/-. The Tribunal has awarded Rs. 10,000/- for pain and sufferings, I am considering it at Rs.25,000/-. Considering the above calculations, the claimants are entitled for enhancement of Rs.50,000/-.

ORDER

1. The appeal is allowed.
2. The appellants/claimants are entitled for enhanced compensation of Rs. 50,000/-- @ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. The respondent No.2/Insurance Company is directed to deposit the enhanced amount along with accrued interest thereon within six weeks from the receipt of this order.

4. The appellants/claimants are permitted to withdraw the deposited amount along with accrued interest thereon.
7. Pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)