IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO. 1388 OF 2014

	Tasneem D/o. Akhtar Bhopalwala, Age About 28 years, Occ: Nil An adult of Indian Inhabitant Residing at Room No.6, 1st Floor, Vikram Building, Opp. Sheetal Cinema, Kurla, Mumbai- 400 070.	…	Appellant
	versus		
1	~~Abhijeet S/o. Dayandeo Thorat~~ ~~Age about 27 years,~~ ~~Occ: Driver, R/o. Baban Chawal,~~ ~~Room No.1, Ravalpada,~~ ~~Shankarwadi, Dahisar (E), Mumbai.~~	….	Respondent
2	~~Popat S/o. Maruti Desai,~~ ~~Age about 45 years,~~ ~~Occ: Business/Owner of Bolero Jeep No.~~ ~~MH-04-CJ-380 R/o. Room No.4,~~ ~~Shankarwadi Awalpada,~~ ~~Near Jame High School,~~ ~~Dahisar (East), Mumbai.~~ ~~At present : Pandurang Apartment,~~ ~~Plot No.203, Mahesh Park,~~ ~~Tulinj Road, Nalasopara (East), Thane~~. Deleted Respondent Nos.1 and 2 as per order dated 10/10/2014 passed in Civil Application No.2908 of 2014. Sd/-01/11/2014.	….	~~Respondent No. 1 and 2 (Ori Opp Party No.1 & 2)~~
3.	New India Assurance Co.Ltd. Through its Branch Manager, Jeevan Seva, 2nd Floor, Santacruz (W), Mumbai – 400 054.	…..	Respondent No.3 (Insurer)

SHUBHADA SHANKAR KADAM Digitally signed by SHUBHADA SHANKAR KADAM Date: 2024.03.06 12:16:36 +0530

Mr. Sajid Shamim along with Mr. Jishan Ansari i/b. Shamim and Co.,, Advocate for the Appellant.
Mr. S. M. Dange, Advocate for Respondent No.3

CORAM : SHIVKUMAR DIGE, J.

DATE : 8th FEBRUARY, 2024.

Oral Judgment :

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

2. It is contention of learned counsel for the appellant/claimant that due to accidental injuries, the claimant has lost her right eye as well as she has suffered 40% permanent partial disability to her body but these facts are not considered by the Tribunal and has awarded compensation on lower side. Learned counsel further submitted that the claimant was serving as Senior Customer Service Officer with Citi Group Global Services, she was earning Rs.26,204/- p.m. but the Tribunal has not considered her monthly income, which is erroneous. The Tribunal has not applied multiplier nor given future prospects. Hence, requested to allow the appeal.

3. It is contention of learned counsel for respondent No.3 – Insurance Company that no documents were produced on record to show the income of the claimant before the Tribunal. The xerox copy of the salary slip was produced on record and no trustworthy evidence of

employment of the claimant was produced before the Tribunal, on that ground, the Tribunal has not considered the income of the claimant, which is proper. Learned counsel further submitted that the Tribunal has considered all the aspects while passing the judgment and order, which is proper and no interference is required in it.

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

5. To prove the income, the claimant has examined herself at "Exhibit-15". She has stated that before the accident, she was doing service under the employment of City Group Global Services and was getting monthly income of Rs.26,204/-. In cross-examination, she admitted that, at the time of vehicular accident, she was on probation in Citi Group Global Services. She further admitted that she has not been terminated from the service but because of health problem, she had to give up her job. She further admitted that she has suffered disfiguration of forehead because of head injury. In support of her evidence, the claimant has examined AW2-Mustaqeen Aziz Hussain, Vice President of Citi Group Global Services. He has stated that the claimant was employee of his company. She had joined as Call Center Associate on 26th December 2006. In the month of July 2007, the claimant left job. The salary of the claimant was Rs.26,200/-. A xerox copy of the salary slip is produced on record at Exhibit-31. Her letter of appointment is at

Exhibit-32. In cross-examination, this witness admitted that he has not produced original record regarding appointment of the claimant and salary record. From the evidence of this witness, it appears that the claimant was serving with Citi Group Global Services and she was getting a salary of Rs.26,200/- but the Tribunal has not considered it merely on the ground that documents produced on record are not trustworthy. I am unable to understand the observations of the Tribunal when the claimant has stated that she was working with Citi Group Global Services and the said fact is admitted by AW2, Vice President of that Company, though xerox copy of the salary slip is produced on record and it is accepted, at the time of accepting that salary slip, objection was not taken by the counsel for respondent-Insurance Company. There is no reason to disbelieve that at the time of accident, deceased was working in Citi Group Global Services. Considering the evidence on record, I am considering the monthly income of the claimant at Rs.20,000/- per month. At the time of the accident, the claimant was 23 year old, so proper multiplier is 18.

It has come on record that due to accidental injuries, the claimant left her job, she is entitled for future prospects.

It has come on record that the claimant has suffered fracture injuries as well as she has lost her right eye. To prove the permanent physical disability, the claimant has examined Dr.Kshitij M. Shah at Exhibit-25. He has stated that due to accidental injuries, the claimant has suffered 40% permanent partial disability. The disability certificate is at Exhibit-26. Nothing elicited in cross-examination of this witness to disbelieve the disability certificate given by him. The disability certificate of eye is given by State run Sir J.J.Hospital, which shows the disability of 30%. From both disability certificates, it appears that the claimant has suffered 70% disability but the Tribunal has considered 30% disability, which is erroneous. Considering the evidence of PW3-Doctor and disability certificate produced on record, I am considering it 50% disability. The Tribunal has awarded Rs.30,000/- for pain and suffering, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded amount for conveyance, I am considering Rs.50,000/-. The Tribunal has not awarded future medical expenses, I am considering it at Rs.1,00,000/-. The Tribunal has not awarded compensation for loss of amenities in life, I am considering it at Rs.50,000/-.

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

Head	Rs.	Amount
Monthly Income	Rs.	20000.00
Future Prospects	Rs.	8000.00
Total	Rs.	28000.00
Annual Income (Rs.28,000/- x 12)	Rs.	336000.00
Rs.336000/- x 18(multiplier)	Rs.	6048000.00
Less 50% Disability	Rs.	3024000.00
Total	**Rs.**	**3024000.00**

Medical expenses incurred	Rs.	236650.00
Pain and Suffering	Rs.	100000.00
Future Medical Expenses	Rs.	100000.00
Conveyance	Rs.	50000.00
Loss of Amenities	Rs.	50000.00
Total Compensation	**Rs.**	**3560650.00**

,

The Tribunal has awarded Rs.2,96,656/-, if this amount is deducted from the amount of Rs.35,60,650/- considered by this Court, it comes to Rs.32,63,994/-. The claimants are entitled for this amount.

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

O R D E R

1. The appeal is allowed.
2. The claimant is entitled for enhanced compensation of Rs.- 32,63,994/-@ 7.5% interest per annum from the date of filing claim petition till realisation of the amount.
3. The respondent-Insurance Company shall deposit the enhanced amount along with accrued interest thereon within eight weeks from the 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.)