

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

FIRST APPEAL NO. 454 OF 2023

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Archana Pandurang Ghodake	)	
Age- 40 years, Occ: Nil	)	
R/o – H-17 Banshetti Nagar,	)	
Jule Solapur, Solapur.	)	Appellant (Orig. Claimant)

Versus

1. Mohan Jalinder Alat	)	
Age: 48 years, Occ: Business)		
R/o- 31, Sindhu Vihar,	)	
Jule Solapur, Vijapur Road,	)	
Solapur.	)	
2. Royan Sundaram Alliane Ins. Co. Ltd.	)	
Having Office at Hotgi Road,	)	
Vishram Nagar, Solapur.	)	Respondent (Orig. Respondents)

Mr. R. S. Alange, Advocate for the Appellant.
 Mr. Nikhil Mehta i/b KMC Legal Venture, Advocate for the
 Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 2nd APRIL, 2024.

Oral Judgment. :

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

2. It is contention of learned counsel for the Appellant that Claimant has suffered 75% permanent physical disability. Due to accidental injuries, she has suffered paraplegia, she is unable to do any work. She was earning Rs.10,000/- per month by doing the business of Beauty Parlor, Tailoring work and Embroidery work but the Tribunal has considered her monthly income at Rs.5,000/- per month, which is on lower side. Learned counsel further submitted that after the accident she is unable to do any work. Her functional disability is 100% but the Tribunal has not considered this fact and has awarded compensation on lower side. Learned counsel further submitted that Tribunal has not awarded future prospects. Learned counsel further submitted that at the time of passing order Tribunal has applied wrong multiplier, proper multiplier be awarded. Hence, requested to allow the Appeal.

3. It is contention of learned counsel for the Respondent

No.2/Insurance Company that no evidence was produced on record to prove the income of the Claimant. On the basis of evidence produced on record, the Tribunal has awarded compensation, which is proper 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, Solapur (for short “the Tribunal”).

5. The disability of 75% suffered to the Claimant is not disputed by the Respondent No.2/Insurance Company. To prove the income, the Claimant has examined herself. She has stated that at the time of accident, she was doing work of beauty parlor, tailoring work and embroidery and she was earning Rs.10,000/- per month. While considering the income of the Claimant, the Tribunal has considered monthly income of the Claimant at Rs.5,000/- per month on the ground that no documentary evidence in support of income of the claimant was produced on record. In my view, the Claimant was doing work from her house so no question of production of documentary evidence arises. The Claimant was working woman and she was maintaining her family and she was doing work of beauty parlor, tailoring and embroidery hence, I am considering Rs.8,000/-

per month as income of the claimant. The Tribunal has not awarded future prospects while awarding compensation.

6. Learned counsel for the Respondent No.2/Insurance Company strongly objected to allowing the future prospects.

7. In my view, as per 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. The Tribunal has awarded amount of Rs.62,206/- towards purchase of medicine. The Respondent No.2/Insurance Company has not disputed this amount. The Tribunal has awarded amount at Rs.68,174/- as medical bills and Rs.1950/- towards OPD charges. The Respondent No.2/Insurance Company has not disputed about this amount. The Tribunal has awarded Rs.59,623/- for purchase of medicine and Rs.20,000/- for bed, matters, reeling, wheel chair and Rs.13,031/- for medical bills of pharmacist and Rs.10,996/- for medical bill, it is not disputed by the Respondent No.2/Insurance Company. The Tribunal has awarded Rs.75,000/- for pain and suffering. Due to accidental injuries, the Claimant has become paraplegia hence, I am considering Rs.2,00,000/- for pain and suffering. The Tribunal has not awarded amount for loss of amenities in life, I am considering Rs.2,00,000/-

for loss of amenities in life. The Tribunal has not awarded amount for loss of expectation of life, I am considering it Rs.2,00,000/-. The Tribunal has not awarded amount for attendance charges, I am considering Rs.1,00,000/-. The Tribunal has not awarded amount for special diet, I am considering Rs.25,000/- for special diet.

8. Considering the above calculations, the claimant is entitled for following compensation.

Monthly income	Rs.8,000/-
Annual Income	Rs.96,000/-
Add: 40% future prospects	Rs.38,400/-
Total income	Rs.1,34,400/-
Multiplier X 15	Rs.20,16,000/-
Medical Expenses	Rs.2,35,980/-
Pain & Suffering	Rs.2,00,000/-
Loss of amenities in life	Rs.2,00,000/-
Attendance charges	Rs.1,00,000/-
Loss of expectation in life	Rs.2,00,000/-
Special Diet	Rs.25,000/-
Total compensation	Rs.29,76,980/-
Less awarded by the Tribunal	Rs.10,61,000/-
Enhanced amount	Rs.19,15,980/-

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

ORDER

- i. Appeal is allowed.
- ii. The Claimant is entitled for enhanced amount of

Rs.19,15,980/- @ 7.5% interest per annum from the date of filing claim petition, till realisation of the amount.

- iii. The Respondent No.2/Insurance Company shall deposit the enhanced amount along with accrued interest thereon.
- iv. The Claimant is permitted to withdraw the deposited amount along with accrued interest thereon.
- v. The Claimant shall pay the deficit Court fees on enhanced amount, as per Rule.

10. All pending applications, if any, stand disposed of.

(SHIVKUMAR DIGE, J.)